

Killed by Hatred or Killed by Love?

*An intersectional challenge to legal constructions of
gendered violence in Finland and Turkey*

Anna Daniela Åkers

University of Helsinki

Faculty of Law

LL.M. Thesis

Gender and Law and Sociology of Law

Supervised by Vice Dean Prof.

Johanna Niemi and

Assistant Professor Sabine Frerichs

November 2013

Tiedekunta/Osasto Fakultet/Sektion – Faculty Faculty of Law		Laitos/Institution – Department
Tekijä/Författare – Author Daniela Åkers		
Työn nimi / Arbetets titel – Title Killed by Hatred of Killed by Love? An intersectional challenge to legal constructions of gendered violence in Finland and Turkey		
Oppiaine / Läroämne – Subject Gender and Law and Sociology of Law		
Työn laji/Arbetets art – Level LL.M. Thesis	Aika/Datum – Month and year November 2013	Sivumäärä/ Sidoantal – Number of pages 84+6+10+XXXVII
Tiivistelmä/Referat – Abstract <p>This LL.M. thesis is an intersectional, interdisciplinary study of the constructions of gendered violence in Finland and Turkey, in particular with reference to majority and minority positions in society. The study is interested in the perception of “the violence of the <i>other</i>”, i.e. the essentialised violence, but also in the normalisation process of (certain kinds of) violence. The categorisation of the so-called <i>collective gendered violence</i> and so-called <i>individual gendered violence</i> are investigated in the thesis as social constructions.</p> <p>In the study, a discourse analysis of twelve (six Finnish + six Turkish) judgements is conducted, inspired by Foucauldian views on discourses, where knowledge and power are intertwined. Four discourses are found in the study: <i>male violence</i>, <i>female behaviour</i>, <i>normalised/individual violence</i> and <i>essentialised/collective violence</i>. The discourse analysis mainly focuses on the creation of legal facts in the argumentation of the court. In the study, context is particularly stressed. Therefore, the study includes a general analysis of gendered violence and majority/positions in Finnish in a societal, political, legal and historical context. The most important features in the international legal framework on gendered violence are shortly accounted for, since international pressure has had a large impact on legal development in both investigated countries. The majority/minority positions in focus are Finnish majority population/(Muslim) immigrant minority population in Finland, and Turkish majority population/Kurdish minority population in Turkey.</p> <p>The study is performed within a feminist and intersectional theoretical framework, where social constructionism and discourse analysis are used as methodology and method. As a main focus of the study, means of alterity are investigated. The study is critical in its nature and poses a challenge to the legal paradigm of objectivity. The study also touches upon the larger debate on the perceived paradox of multiculturalism and feminism in the liberalist view on law in western society. The study claims that this paradox is the result of the patriarchal and imperialistic structures in law.</p> <p>The conclusion of the study is that the constructions of legal facts in courts are often discriminating upon vulnerable groups. In the study, these are mainly women and minority group members. The interaction and interconnections of the discourses often lead to multiple discrimination, where the female minority member is particularly vulnerable, her perspective being invisible in the construction of the legal facts.</p>		
Avainsanat – Nyckelord – Keywords intersectionality, feminism and feminist theory, alterity, multiculturalism, gendered violence, violence against women, discourse analysis, comparative study		
Säilytyspaikka – Förvaringställe – Where deposited Faculty of Law Library		
Muita tietoja – Övriga uppgifter – Additional information		

Table of Contents

Acknowledgements	III
Sources	IV
Treaties and Legislation	IV
<i>International Treaties</i>	IV
<i>Finnish Legislation</i>	IV
<i>Turkish Legislation</i>	IV
Court Cases	IV
<i>European Court of Human Rights</i>	IV
<i>Finnish Court Cases</i>	IV
<i>Turkish Court Cases</i>	V
Other Official Documents	V
<i>United Nations Documents</i>	V
<i>Council of Europe Documents</i>	VIII
<i>European Union Documents</i>	VIII
<i>Finnish Documents</i>	IX
<i>Turkish Documents</i>	X
<i>Swedish Documents</i>	X
<i>U.S. Documents</i>	XI
Bibliography	XI
<i>Literature</i>	XI
<i>Newspaper Articles</i>	XXVII
<i>Online Sources</i>	XXVII
Interviews	XXXIV
Lectures and Other Relevant Material	XXXV
Abbreviations	XXXVI
 1 Introduction: Gender, violence and culture	 1
 2 Theoretical and Methodological Framework: A critical perspective on law	 5
 3 Gendered Violence: Passion or honour?	 12
3.1 The Collective Violence: So-called killings of honour or custom	14

3.2 The Individual Violence: So-called killings of passion or honour	18
3.3 Categorisation of Gendered Violence: Helpful or harmful?	21
3.4 Culture, Feminism and Rights	23
3.4.1 <i>The Concept of Culture</i>	24
3.4.2 <i>The Concept of Rights</i>	25
3.3.4 <i>The Concept of Feminism</i>	26
3.4.4 <i>Conflict or Creation?</i>	27
4 Legal and Policy Approaches: A universal issue?	29
4.1 International Legislation and Policy Framework.....	30
4.2 Gendered Violence in Finland	33
4.2.1 <i>Finnish Legislation</i>	36
4.2.2 <i>Gendered Violence and Majority/Minority Positions in Finland</i>	39
4.3 Gendered Violence in Turkey	41
4.3.1 <i>Turkish Legislation</i>	45
4.3.2 <i>Gendered Violence and Majority/Minority Positions in Turkey</i>	48
5 Court Context: Analysis of constructions	50
5.1 Facts of the Cases	51
5.2 Findings: Discursive similarities and differences	52
5.2.1 <i>Male Violence</i>	53
5.2.2 <i>Female Behaviour</i>	58
5.2.3 <i>Normalised/Individual Violence</i>	64
5.2.4 <i>Essentialised/Collective Violence</i>	70
5.3 Interconnections: The ultimate victimisation of minority women.....	75
6 Conclusions: Gendered violence and identity-building processes	79
Annex: Court Judgements	85

Acknowledgements

I wish to thank the people who have contributed to this thesis. These are first and foremost my supervisors, Johanna Niemi and Sabine Frerichs, who have supported me in my researching and writing, widened my perspectives and provided me with important insights.

I would like to express my gratitude to the personnel at the Foundation for Legal and Society Studies, TOHAV, for your help and support during the summer 2013. In particular, my special thanks go to Sevgi Epçeli and Hatice Ödemiş.

To Dan Frände, Tuuli Hong, Riikka Kotanen and Ferya Taş, thank you for your time, useful advice and comments.

To the members of the GENESO research group, I wish to thank you for sharing your expertise with me on the subject. To all my interviewees, I owe particular gratitude for your interesting and diverging views, and offering new approaches to my study. I also extend my gratitude to the members of my project group, for positive and supporting attitudes throughout the process.

To my family, friends and partner, I thank you for your encouragement, support and understanding. In particular, I wish to acknowledge the help provided by Rebecca, Tijana, Jonna and Özgür.

Sources

Treaties and Legislation

International Treaties

Convention on the Elimination of All Forms of Discrimination against Women (opened for signature 1 March 1980, entered into force 3 September 1981) 1249 UNTS 13, Finnish Treaty Series 67–68/1986. (*CEDAW*)

Council of Europe Convention on preventing and combating violence against women and domestic violence (opened for signature in Istanbul, 11 May 2011) CETS 210. (*The Istanbul Convention*)

The Lausanne Peace Treaty between the British Empire, France, Italy, Japan, Greece, Romania and the Serb-Croat-Slovens State of the one part and Turkey of the other part (signed at Lausanne, 24 July 1923) LNTS vol. xxvrm. (*The Lausanne Treaty*)

Finnish Legislation

The Finnish Criminal Code (*fi*: *Rikoslaki*) 39/1889, adopted 19 December 1889.

Turkish Legislation

The Constitution of the Republic of Turkey (*tr*: *Türkiye Cumhuriyeti Anayasası*) no. 2709, adopted 7 November 1982.

The Law to Protect Family and Prevent Violence against Women (*tr*: *Sayılı Kadına Karşı Şiddetin Önlenmesine Dair Kanun*) no. 6248, adopted 8 March 2012.

The Turkish Criminal Code (*tr*: *Türk Ceza Kanunu*) no. 5237, adopted 26 September 2004.

Court Cases

European Court of Human Rights

Case of Opuz v. Turkey. Application no. 33401/02. Judgement 9 June 2009. Final 9 September 2009. (*Case of Opuz v. Turkey*)

Finnish Court Cases

The Supreme Court of Finland (including judgements of lower court instances)

KKO:2004:80, Judgement given 2 September 2004.

KKO:2000:29, Judgement given 1 March 2000.

KKO:2000:3, Judgement given 18 January 2000.

KKO:1997:153, Judgement given 8 October 1997.

Finnish Courts of Appeals (including judgements of lower court instances)

Kouvolan hovioikeus, Judgement no. 2011/399, Record no. R 10/1129, Judgement given 14 April 2011.

Finnish Courts of First Instance

Helsingin käräjäoikeus, Judgement no. 06/10736, Record no. R 06/10736, Judgement given 27 October 2006.

Helsingin käräjäoikeus, Judgement no. 06/1871, Record no. R 05/8762, Judgement given 22 February 2006.

Turkish Court Cases

The Supreme Court of Appeals of Turkey (*tr: Türkiye Cumhuriyet Yargıtay Başkanlığı*)

Decision no. 2012/1724, File no. 2010/3234, Judgement given 13 March 2012.

Decision no. 2011/120, File no. 2011/1-138, Judgement given 14 June 2011.

Decision no. 2011/124, File no. 2011/1-24, Judgement given 14 June 2011.

Decision no. 2010/111, File no. 2010/1-56, Judgement given 11 May 2010.

Decision no. 2010/3023, File no. 2009/6525, Judgement given 27 April 2010.

Decision no. 2009/290, File no. 2009/1-200, Judgement given 15 December 2009.

Decision no. 2009/293, File no. 2008/10901, Judgement given 30 January 2009.

Decision no. 2007/6751, File no. 2006/4529, Judgement given 24 September 2007.

Other Official Documents

United Nations Documents

UN Commission on Human Rights: Commission on Human Rights Report on the sixtieth session (15 March–23 April 2004) Part I Corrigendum, UN Docs. E/2004/23/Corr.1 (Part I) and E/CN.4/127/Corr.1 (Part I), 20 July 2004. (*E/2004/23/Corr.1 (Part I) and E/CN.4/127/Corr.1 (Part I)*)

UN Commission on Human Rights: Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 2001/49: Cultural practices in the family that are violent towards women. UN Doc. E/CN.4/2002/83, 31 January 2002. (*E/CN.4/2002/83*)

UN Commission on Human Rights: Question of integrating the rights of women into the human rights mechanisms of the United Nations and the elimination of violence against women. UN Doc. E/CN.4/RES/1994/45, 4 March 1994. (*E/CN.4/RES/1994/45*)

UN Committee on the Elimination of Discrimination Against Women (CEDAW): CEDAW General Recommendation no. 24: Article 12 of the Convention, adopted at the 20th Session, 1999. UN Doc. A/54/38/Rev.1. (*CEDAW General Recommendation no. 24*)

UN Committee on the Elimination of Discrimination Against Women (CEDAW): CEDAW General Recommendation no. 21, adopted at the Thirteenth Session, 1994. UN Doc. A/49/38. (*CEDAW General Recommendation no. 21*)

UN Committee on the Elimination of Discrimination Against Women (CEDAW): CEDAW General Recommendation no. 19, adopted at the Eleventh Session, 1992. UN Doc. A/47/38. (*CEDAW General Recommendation no. 19*)

UN Committee on the Elimination of Discrimination Against Women (CEDAW): CEDAW General Recommendation no. 12, adopted at the Eighth Session, 1989. UN Doc. A/44/38. (*CEDAW General Recommendation no. 12*)

UN Convention on the Elimination of All Forms of Discrimination against Women: Fifth periodic report of States parties, Finland. 26 February 2004. UN Doc. CEDAW/C/FIN/5. (*CEDAW/C/FIN/5*)

UN Convention on the Elimination of All Forms of Discrimination against Women: Combined fourth and fifth reports of States parties, Turkey. 8 August 2003. UN Doc. CEDAW/C/TUR/4-5. (*CEDAW/C/TUR/4-5*)

UN Department of Economic and Social Affairs: The World's Women 2010: Trends and Statistics. UN Doc. ST/ESA/STAT/SER.K/19. United Nations publication 2010. (*ST/ESA/STAT/SER.K/19*)

UN Department of Economic and Social Affairs, Division for the Advancement of Women. Handbook for Legislation on Violence Against Women. UN Doc. ST/ESA/329. United Nations publication 2010. (*ST/ESA/329*)

UN General Assembly: Working towards the elimination of crimes against women and girls committed in the name of honour. UN Doc. A/RES/59/165, 10 February 2005. (*A/RES/59/165*)

UN General Assembly: Working towards the elimination of crimes against women and girls committed in the name of honour. Third Committee 59th session. UN Doc. A/C.3/59/L.25, 15 October 2004. (*A/C.3/59/L.25*)

UN General Assembly: Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly: Resolution adopted by the General Assembly. UN Doc. A/RES/58/148, 19 February 2004. (*A/RES/58/148*)

UN General Assembly: Working towards the elimination of crimes against women committed in the name of honour: Resolution adopted by the General Assembly. UN Doc. A/RES/57/179, 30 January 2003. (*A/RES/57/179*)

UN General Assembly: Note by the Secretary General, 23rd special session. Women 2000: Gender equality, development and peace in the twenty-first century. UN Doc. A/S-23/8, 7 June 2000. (*Women 2000: Gender equality, development and peace in the twenty-first century*)

UN General Assembly: Report of the Economic and Social Council for 1997. UN Doc. A/52/3, 18 September 1997. (*UN ECOSOC Report 1997*)

UN General Assembly: The Declaration on the Elimination of Violence against Women. UN Doc. A/RES/48/104, 20 December 1993. (*DEVAW*)

UN General Assembly: Vienna Declaration and Programme of Action. UN Doc. A/CONF.157/23, 12 July 1992. (*Vienna Declaration and Programme of Action 1993*)

UN Human Rights Council: Accelerating efforts to eliminate all forms of violence against women: preventing and responding to rape and other forms of sexual violence. UN Doc. A/HRC/RES/23/25, 25 June 2013. (*A/HRC/RES/23/25*)

UN Human Rights Council: Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk: addendum : 15 years of the United Nations SR on violence against women, its causes and consequences (1994–2009): a critical review. UN Doc. A/HRC/11/6/Add.5, 27 May 2009. (*A/HRC/11/6/Add.5*)

UN Human Rights Council: Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, Intersections between culture and violence against women. UN Doc. A/HRC/4/34, 17 January 2007. (*A/HRC/4/34*)

UN Human Rights Council: Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk, Intersections between culture and violence against women: addendum: mission to Turkey. UN Doc. A/HRC/4/34/Add.2, 5 January 2007. (*A/HRC/4/34/Add.2*)

UN Human Rights Council: Decision 1/102. Extension by the Human Rights Council of all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights. 30 June 2006. (*Human Rights Council Decision 1/102*)

United Nations: Expert Group Meeting on good practices in legislation on violence against women. Good Practices in Legislation on Violence against Women in Turkey and the Problems of Implementation. Expert paper prepared by Pınar Ilkcaracan and Liz Ercevik Amado. 23 May 2008. UN Doc. EGM/GPLVAW/2008/EP.13. (*EGM/GPLVAW/2008/EP.13*)

United Nations: Beijing Declaration and Platform of Action. Adopted at the Fourth World Conference on Women, 27 October 1995. (*Beijing Declaration and Platform for Action 1995*)

United Nations: Report to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace. Adopted at the Third World Conference on Women in Nairobi, 15–26 July 1985. UN Doc. A/CONF.116/28/Rev.1, 26 July 1985. (*Report of the Nairobi Conference 1985*)

UN Secretary General: Report of the World Conference on Human Rights. UN Doc. A/CONF.157/24, 13 October 1993. (*United Nations Secretary General 1993*)

UN Sub-Commission on the Promotion and Protection of Human Rights: Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children: corrigendum. UN Doc. E/CN.4/Sub.2/1994/10/Add.1, 15 August 1994. (*Plan of action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children*)

UN Women: 2011–2012 Progress of the World’s Women: In Pursuit of Justice. UN Women Publications 2011. (*UN Women 2011*)

World Health Organization: Global and regional estimates of violence against women: prevalence and health effects on intimate partner violence and non-intimate partner violence. WHO Press 2013. (*World Health Organization 2013*)

World Health Organization: Summary Report: WHO Multi-country Study on Women’s Health and Domestic Violence against Women. Initial results on prevalence, health outcomes and women’s responses. WHO Press 2005. (*World Health Organization 2005*)

World Health Organization: Violence against women. Definition and scope of the problem. Fact sheet, WHO Press 1997. (*World Health Organization 1997*)

Council of Europe Documents

CoE Commissioner for Human Rights: Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe. Following his visit to Finland from 11 to 13 June 2012. CommDH(2012)27. (*CoE Commissioner for Human Rights 2012a*)

CoE Commissioner for Human Rights: Report by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe. Following his visit to Turkey from 10 to 14 October 2012. CommDH(2012)2. (*CoE Commissioner for Human Rights 2012b*)

CoE European Commission against Racism and Intolerance (ECRI): ECRI Report on Finland (fourth monitoring circle). Adopted on 21 March 2013. Published on 9 July 2013. CRI(2013)19. (*CRI(2013)19*)

European Union Documents

EUMC (European Monitoring Centre on Racism and Xenophobia): Summary Report on Islamophobia in the EU after 11 September 2001, 2002. (*EUMC 2002*)

European Commission: Commission Staff Working Document: Turkey 2013 Progress Report. SWD (2013) 417 final. (*European Commission 2013*)

European Commission: Commission Staff Working Document: Turkey 2012 Progress Report. SWD (2012) 336 final. (*European Commission 2012*)

European Commission: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the

Regions. Strategy for equality between men and women 2010–2015. European Commission/COM/2010/0491 final, 21 September 2010. (*European Commission/COM/2010/0491 final*)

European Commission: Communication from the Commission. A Strengthened Commitment to Equality between Women and Men. A Women's Charter. Declaration by the European Commission on the occasion of the 2010 International Women's Day. European Commission/COM/2010/0078 final/, 5 March 2010. (*European Commission/COM/2010/0078 final*)

European Commission Eurobarometer: Domestic Violence against Women, Report. Special Eurobarometer 344, 2010. (*Special Eurobarometer 344, 2010*)

Finnish Documents

Finnish Ministry of Employment and the Economy: Discrimination in the Finnish Labor Market: An overview and a field experiment on recruitment. TEM 16/2012. (*TEM 16/2012*)

HE 286/2010 vp, Government Bill. (*HE 286/2010*)

HE 94/1993 vp, Government Bill. (*HE 94/1993*)

HE 365/1992 vp, Government Bill. (*HE 365/1992*)

KK 134/2002 vp, Written Question Initiated by MP Sulo Aittoniemi. 14 March 2002. (*KK 134/2002*)

LaVM 22/1994 vp, Law Committee Memorandum. (*LaVM 22/1994*)

LaVM 4/1994 vp, Law Committee Memorandum. (*LaVM 4/1994*)

Sosiaali- ja terveysministeriö: Hallituksen tasa-arvo-ohjelma 2012–2015. Sosiaali- ja terveysministeriön julkaisuja 2012:10. (*STM 2012:10*)

Sosiaali- ja terveysministeriö: Naisiin kohdistuvan väkivallan vähentämisen ohjelma. Sosiaali- ja terveysministeriön julkaisuja 2010:5. (*STM 2010:5*)

Sosiaali- ja terveysministeriö: Maahanmuuttajanaiset ja väkivalta. Opas sosiaali- ja terveysalan auttamistyöhön. Sosiaali- ja terveysministeriön oppaita 2005:15. (*STM 2005:15*)

Sisäasiainministeriö: Maahanmuuton vuosikatsaus 2012. Sisäasiainministeriön julkaisuja 2013. (*Sisäasiainministeriö 2013*)

Sisäasiainministeriö: Viranomaisten koulutuksen *kehittäminen kunniaan liittyvän väkivallan tunnistamiseksi ja ennalta ehkäisemiseksi* – Ehdotus. Sisäasiainministeriön julkaisuja 14/2011. (*SM 14/2011*)

Sisäasiainministeriö: Etnisten vähemmistöjen ja maahanmuuttajien turvallisuus paikallisissa turvallisuussuunnitelmissa – Työkirja. Sisäasiainministeriön julkaisuja 29/2009. (*SM 29/2009*)

Sisäasiainministeriö: Puhumalla paras: Ratkaisuja arjen etnisiin konflikteihin. Sisäasiainministeriön julkaisuja 1/2008. (*SM 1/2008*)

Ulkoasiainministeriö: Naisiin kohdistuvan väkivallan ja perheväkivallan ehkäisemisestä ja torjumisesta tehdyn Euroopan neuvoston yleissopimuksen voimaansaattamista valmistelleen työryhmän mietintö. Ulkoasiainministeriön julkaisuja 2013. (*Ulkoasiainministeriö 2013*)

Turkish Documents

T.C. Milli Eğitim Bakanlığı: Medyada töre ve namus cinayetlerinin yansimalari, veliler ve öğrenciler üzerindeki etkileri, EARGED 2008. (*T.C. Milli Eğitim Bakanlığı 2008*)

Turkish Ministry of Justice: Turkish Judicial System: Bodies, Duties and Officials. The Ministry of Justice of Turkey, the Department for Strategy Development 2013. (*Turkish Ministry of Justice 2013*)

Turkish Prime Ministry Directorate General on the Status of Women: Domestic Violence against Women in Turkey. Conducted by the consortium of ICON-Institut Public Sector GmbH, Hacettepe University Institute of Population Studies and BNB Consulting Ltd Co. Elma Teknik Basım Matbaacılık 2009. (*Turkish Prime Ministry Directorate General on the Status of Women 2009*)

Turkish Prime Ministry Directorate General on the Status and Problems of Women: Response of the Republic of Turkey to the Questionnaire on Implementation of the Beijing Platform for Action. Publication of the General Directorate on the Status and Problems of Women 2004. (*Turkish Prime Ministry Directorate General on the Status and Problems of Women 2004*)

Türkiye Büyük Millet Meclisi İnsan Haklarını İnceleme Komisyonu: Kadın ve Aile Bireylerine Yönelik Şiddet İnceleme Raporu. İnceleme Raporu 2011. (*Türkiye Büyük Millet Meclisi İnsan Haklarını İnceleme Komisyonu 2011*)

Swedish Documents

Brottsförebyggande rådet (BRÅ): Polisens utredningar av hedersrelaterat våld. BRÅ Rapport 2012:1. (*BRÅ Rapport 2012:1*)

Regeringens skrivelse: Handlingsplan för att förebygga och förhindra att unga blir gifta mot sin vilja. Skr. 2009/10:229. (*Regeringens Skr. 2009/10:229*)

Regeringens skrivelse: Handlingsplan för att bekämpa mäns våld mot kvinnor, hedersrelaterat våld och förtryck samt våld i samkönade relationer. Skr. 2007/08:39. (*Regeringens Skr. 2007/08:39*)

Socialstyrelsen: Frihet och ansvar: En undersökning om gymnasieungdomars upplevda frihet att själva bestämma över sina liv. Lägesbeskrivning, art. nr. 2007-131-27. (SS 2007-131-27)

Statens offentliga utredningar (SOU): Hedersproblematik i skolan – en kunskaps- och forskningsöversikt. Rapport från Delegationen för jämställdhet i skolan. SOU 2010:84. (SOU 2010:84)

Statens offentliga utredningar (SOU): Slag i luften. En utredning om myndigheter, manskvåld och makt. SOU 2004:121. (SOU 2004:121)

U.S. Documents

United States Department of State: Finland 2012 Human Rights Report. Country Reports of Human Rights Practices for 2012. (*United States Department of State 2012a*)

United States Department of State: Turkey 2012 Human Rights Report. Country Reports of Human Rights Practices for 2012. (*United States Department of State 2012b*)

Bibliography

Literature

Abbas, Tahir: Honour-related violence towards South Asian Muslim women in the UK: A crisis of masculinity and cultural relativism in the context of Islamophobia and the “war on terror”. In Mohammad Mazher Idriss and Tahir Abbas (edit): *Honour, Violence, Women and Islam*. Routledge 2011, pp. 16–28. (*Abbas 2011*)

Abu-Lughod, Lila: Seductions of the “Honor Crime”. *Differences: A Journal of Feminist Cultural Studies*, vol. 22 issue 1/2011, pp. 17–63. (*Abu-Lughod 2011*)

Abu-Odeh, Lama: Comparatively Speaking: The “honor” of the “East” and the “passion” of the “West”. *Utah Law Review* vol. 49 issue 2/1997, pp. 287–307. (*Abu-Odeh 1997*)

Akpınar, Aylin: The Honour/Shame Complex Revisited: Violence against women in the migration context. *Women’s Studies International Forum* vol. 26 issue 5/2003, pp. 425–442. (*Akpınar 2003*)

Alder, Christine: Violence, Gender, and Social Change. In Laura L. O’Toole and Jessica R. Schiffman: *Gender Violence – Interdisciplinary Perspectives*. New York University Press 1997, pp. 435–442. (*Alder 1997*)

Al-Hibri, Azizah Y.: Is Western Patriarchal Feminism Good for Third World/Minority Women? In Susan Moller Okin: *Is Multiculturalism Bad for Women? With Respondents*. Edited by Joshua Cohen, Matthew Howard and Martha C. Nussbaum. Princeton University Press 1999, pp. 41–46. (*Al-Hibri 1999*)

Allen, Chris: Islamophobia. Ashgate 2010. (*Allen 2010*)

Allinen-Calderon, Nnenna; Kanervo, Marianna and Nurmi, Reet (edit): Tunnista ja turvaa – käsikirja väkivallan uhrin auttamistyöhön vastaanottokeskuksissa. Monika-Naiset liitto ry 2011. (*Allinen-Calderon et al 2011*)

Altınay, Ayşe Gül and Arat, Yeşim: Violence against Women in Turkey: A nationwide survey. Punto 2009. (*Altınay and Arat 2009*)

Amnesty International: Finland, Submission to the United Nations Human Rights Committee, for the 108th session of the Human Rights Committee (8–26 July 2013). Amnesty International Publications 2013. (*Amnesty International 2013*)

Amnesty International: Case Closed: Rape and human rights in the Nordic countries. Summary report. Amnesty International Publications 2010. (*Amnesty International 2010*)

Amnesty International: Turkey: Women confronting family violence. Amnesty International Publication part of the campaign *Stop Violence against Women*, 2004. (*Amnesty International 2004*)

An-Na'im, Abdullahi: Promises We Should All Keep in Common Cause. In Susan Moller Okin: *Is Multiculturalism Bad for Women? With Respondents*. Edited by Joshua Cohen, Matthew Howard and Martha C. Nussbaum. Princeton University Press 1999, pp. 59–64. (*An-Na'im 1999*)

Aslan, Senem: Incoherent State: The controversy of Kurdish naming in Turkey. *European Journal of Turkish Studies* vol. 10 issue 1/2009, pp. 1–17. (*Aslan 2009*)

Awla, Rasool: Hedersmord och islam. In Kenneth Johansson (edit): *Hedersmord: Tusen år av hederskultur*. Historiska media 2005, pp. 125–169. (*Awla 2005*)

Äärelä, Eeva and Gerbert, Natalie: Asiakkaana väkivaltaa kokenut maahanmuuttajanainen. Monika-Naiset liitto ry 2012. (*Äärelä and Gerbert 2012*)

Baker, Nancy V.; Gregware, Peter R. and Cassidy, Margery A.: Family Killing Fields: Honor rationales in the murder of women. *Violence against Women* vol. 5 issue 2/1999, pp. 164–184. (*Baker et al 1999*)

Bayr, Derya: Representation of the Kurds by the Turkish Judiciary. *Human Rights Quarterly* vol. 35 issue 1/2013, pp. 116–142. (*Bayr 2013*)

Baytok, Cemre: Political Vigilance in Court Rooms: Feminist interventions in the field of law. Master's thesis, Boğaziçi University, Department of Sociology 2012. (*Baytok 2012*)

Beattie, John: Other Cultures – Aims, Methods and Achievements in Social Anthropology. Cohen & West Limited 1964. (*Beattie 1964*)

Belge, Ceren: Whose Law?: Clans, honor killings and State-minority relations in Turkey and Israel. Ph.D. Dissertation. University of Washington, Department of Political Science

2008. (*Belge 2008*)

Benhabib, Şeyla: The Rights of Others: Aliens, residents and citizens. Cambridge University Press 2004. (*Benhabib 2004*)

Benhabib, Şeyla: The Claims of Culture: Equality and diversity in the global era. Princeton University Press 2002. (*Benhabib 2002*)

Berger, Peter L. and Luckmann, Thomas: The Social Construction of Reality: A treatise in the sociology of knowledge. Doubleday 1967. (*Berger and Luckmann 1967*)

Bergström, Göran and Boréus, Kristina: Diskursanalys. In Göran Bergström and Kristina Boréus (edit): *Textens mening och makt. Metodbok i samhällsvetenskaplig text- och diskursanalys*. Studentlitteratur 2005, pp. 305–362. (*Bergström and Boréus 2005*)

Besse, Susan K.: Crimes of Passion: The campaign against wife killing in Brazil, 1910–1940. *Journal of Social History* vol. 22 issue 4/1989, pp. 653–666. (*Besse 1989*)

Bhabha, Homi K.: Liberalism's Sacred Cow. In Susan Moller Okin: *Is Multiculturalism Bad for Women? With Respondents*. Edited by Joshua Cohen, Matthew Howard and Martha C. Nussbaum. Princeton University Press 1999, pp. 79–84. (*Bhabha 1999*)

Bladini, Moa: I objektivitetens sken – en kritisk granskning av objektivitetsideal, objektivitetsanspråk och legitimeringsstrategier i diskurser om dömande i brottmål. Makadam 2013. (*Bladini 2013*)

Blaut, James M.: The Theory of Cultural Racism. *Antipode: A Radical Journal of Geography* vol. 24 issue 4/1992, pp. 289–299. (*Blaut 1992*)

Bozkurt, Emine: Women's Human Rights: Turkey's way to Europe. Short report written for the European Parliament 2007. (*Bozkurt 2007*)

Bredal, Anja: Tackling Forced Marriages in the Nordic Countries: Between women's rights and immigration control. In Lynn Welchman and Sara Hossain (edit): *"Honour": Crimes, paradigms and violence against women*. Zed Books 2005, pp. 332–352. (*Bredal 2005*)

Burr, Vivian: Overview, Realism, Relativism, Social Constructionism and Discourse. In Ian Parker (edit): *Social Constructionism, Discourse and Realism*. SAGE Publications 1998, pp. 13–25. (*Burr 1998*)

Butler, Judith: Undoing Gender. Routledge 2004. (*Butler 2004*)

Butler, Judith: Bodies that Matter: On the discursive limits of "sex". Routledge 1993. (*Butler 1993*)

Butler, Judith: Gender Trouble: Feminism and the subversions of identity. Routledge 1990. (*Butler 1990*)

Campani, Giovanna: The Gendered Dimension of Security and Migration. In Gabriella Lazaridis (edit): *Security, Insecurity and Migration in Europe*. Ashgate 2011, pp. 161–178.

(Campani 2011)

Carbin, Maria: Mellan tystnad och tal: Flickor och hedersvåld i svensk offentlig politik. Stockholm University, Faculty of Social Sciences 2010. (Carbin 2010)

Carline, Anna: Honour and Shame in Domestic Homicide: A critical analysis of the provocation defence. In Mohammad Mazher Idriss and Tahir Abbas (edit): *Honour, Violence, Women and Islam*. Routledge 2011, pp. 80–95. (Carline 2011)

Centel, Nur (edit): Ceza Hukukunda Kadının Şiddete Karşı Korunması. Koç Üniversitesi Hukuk Fakültesi. On İki Levha Yayıncılık A.Ş. 2013. (Centel (edit) 2013)

Chantler, Khatidja and Gangoli, Geetanjali: Violence against Women in Minoritised Communities: Cultural norm or cultural anomaly? In Ravi K Thiara, Stephanie A. Condon and Monika Schröttle (edit): *Violence against Women and Ethnicity: Commonalities and differences across Europe*. Barbara Budrich Publishers 2011, pp. 353–366. (Chantler and Gangoli 2011)

Chesler, Phyllis: Are Honor Killings Simply Domestic Violence? *Middle East Quarterly* vol. 16 issue 2/2009, pp. 61–69. (Chesler 2009)

Chomsky, Noam: Objectivity and Liberal Scholarship. New Press 2003. (Chomsky 2003)

Christie, Nils: The Ideal Victim. In Ezzat A. Fattah (edit): *From Crime Policy to Victim Policy: Reorienting the justice system*. St. Martin's Press 1986, pp. 17–30. (Christie 1986)

Collins, Patricia H.: Black Feminist Thought: Knowledge, consciousness and the politics of empowerment. Routledge 2000. (Collins 2000)

Condon, Stephanie; Lesné, Maud and Schröttle, Monika: What Do We Know About Gendered Violence and Ethnicity Across Europe From Surveys? In Ravi K. Thiara, Stephanie A. Condon and Monika Schröttle (edit): *Violence against Women and Ethnicity: Commonalities and differences across Europe*. Barbara Budrich Publishers 2011, pp. 59–76. (Condon et al 2011)

Connors, Jane: United Nations Approaches to "Crimes of Honour". In Lynn Welchman and Sara Hossain (edit): *"Honour": Crimes, paradigms and violence against women*. Zed Books 2005, pp. 22–41. (Connors 2005)

Cornescu, Adrian V.: The Generations of Human's Rights. Paper presented at the conference *Days of Law*. Brno, 18–19 November 2009. (Cornescu 2009)

Crenshaw, Kimberlé W.: Mapping the Margins: Intersectionality, identity politics and violence against women of color, *Stanford Law Review* vol. 43 issue 6/1991, pp. 1241–1299. (Crenshaw 1991)

Cronberg, Marie L.: Dagens hedersmord kontra nordiska kvinnors historia: Från 1600-tal till 1900-tal. In Kenneth Johansson (edit): *Hedersmord: Tusen år av hederskulturer*. Historiska media 2005, pp. 189–206. (Cronberg 2005)

Çakmak, Hatice Karaçay and Altuntaş, Nezahat: Reconsidering Gender Inequality and Honour Suicide within the Frame of Different Liberal Theories: Turkey-Batman case. *Muslim World Journal of Human Rights* vol. 5 issue 1/2008, pp. 1–27. (Çakmak and Altuntaş 2008)

Dallmeyer, Dorinda G. (edit): *Reconceiving Reality: Women and international law*. The American Society of International Law 1993. (Dallmeyer (edit) 1993)

Davies, Margaret: The Ethos of Pluralism. *Sydney Law Review* vol. 27 issue 1/2005, pp. 87–112. (Davies 2005)

de los Reyes, Paulina and Mulinari, Diana: Intersektionalitet: Kritiska reflektioner över (o)jämlighetens landskap. Liber 2005. (de los Reyes and Mulinari 2005)

Derrida, Jaques: *De la grammatologie*. Minuit 1967. (Derrida 1967)

Edwards, Anne: Male Violence in Feminist Theory: An analysis of the changing conceptions of sex/gender violence and male dominance. In Jalna Hanmer and Mary Maynard (edit): *Women, Violence and Social Control*. Humanities Press International 1987. (Edwards A. 1987)

Edwards, Susan S. M.: “Provoking Her Own Demise”: From common assault to homicide. In Jalna Hanmer and Mary Maynard (edit): *Women, Violence and Social Control*. Humanities Press International 1987, pp. 152–168. (Edwards S. 1987)

van Eck, Clementine: *Purified by Blood: Honour killings amongst Turks in the Netherlands*. Amsterdam University Press 2003. (van Eck 2003)

Ekström, Simon: *Hedersmorden och orden. Berättelser om kultur, kritik och skillnad*. Makadam 2009. (Ekström 2009)

Ekström, Simon: Vad mord vill säga: Om heder, ära och våldets emblem. In Kenneth Johansson (edit): *Hedersmord: Tusen år av hederskulturer*. Historiska media 2005, pp. 15–46. (Ekström 2005)

Eldén, Åsa: Men’s Violence and Women’s Responsibility: Mothers’ stories about honour violence. In Mohammad Mazher Idriss and Tahir Abbas (edit): *Honour, Violence, Women and Islam*. Routledge 2011, pp. 128–141. (Eldén 2011)

Eldén, Åsa (edit): *Honour Related Violence against Women: Sharing experiences of similarities and differences*. Report on a seminar at the Swedish Institute in Alexandria, Egypt. Swedish Institute Alexandria 2007. (Eldén (edit) 2007)

Eldén, Åsa: *Heder på liv och död. Våldsamma berättelser om rykten, oskuld och heder*. Comprehensive Summaries of Uppsala University Dissertations from the Faculty of Social Sciences 2003. (Eldén 2003)

Eldén, Åsa and Westerstrand, Jenny: Hederns försvarare. Den rättsliga hanteringen av ett hedersmord. *Kvinnovetenskaplig tidskrift* vol. 23 issue 3/2003, pp. 35–56. (Eldén and Westerstrand 2003)

Ergil, Doğu: The Kurdish Question in Turkey. *Journal of Democracy* vol. 11 issue 3/2000, pp. 122–135. (Ergil 2000)

Ertürk, Yakın: Culture versus Rights Dualism: A myth or reality? Published on OpenDemocracy, 25 April 2012, pp. 1–6. Based on a presentation at the AWID Forum 2012 in Istanbul, 19–22 April. (Ertürk 2012)

Ertürk, Yakın and Purkayastha, Bandana: Linking Research, Policy and Action: A look at the work of the special rapporteur on violence against women. *Current Sociology* vol. 60 issue 2/2012, pp. 142–160. (Ertürk and Purkayastha 2012)

Ertürk, Yakın: Towards a Post-Patriarchal Gender Order: Confronting the universality and the particularity of violence against women. *Sociologisk Forskning* vol. 46 issue 4/2009, pp. 58–68. (Ertürk 2009)

Foucault, Michel: Security, Territory, Population: Lectures at Collège de France, 1977–1978. Edited by Michel Senellart *et al.* Palgrave Macmillan 2007. (Foucault 2007)

Foucault, Michel: The Archaeology of Knowledge. Translated by A.M. Sheridan Smith. Routledge 2002. (Foucault 2002)

Foucault, Michel: Discipline and Punish: The birth of the prison. Translated by Alan Sheridan. Vintage Books 1995. (Foucault 1995)

Foucault, Michel: The History of Sexuality. 1. An introduction. Translated by Robert Hurley. Vintage Books 1990. (Foucault 1990)

Frände, Dan: Allmän straffrätt. Forum Iuris 2004. (Frände 2004)

Gergen, Mary and Gergen, Kenneth J.: Social Construction: A reader. Sage Publications 2003. (Gergen and Gergen 2003)

Gergen, Kenneth J.: Constructionism and Realism: How are we to go on? In Ian Parker (edit): *Social Constructionism, Discourse and Realism*. SAGE Publications 1998, pp. 147–155. (Gergen 1998)

Ghobadzadeh, Naser: A Multiculturalism-Feminism Dispute: Muslim Women and the Sharia Debate in Canada and Australia. *Commonwealth & Comparative Politics* vol. 48 issue 3/2010, pp. 301–319. (Ghobadzadeh 2010)

Gill, Aisha: Reconfiguring “Honour”-based Violence as a Form of Gendered Violence. In Mohammad Mazher Idriss and Tahir Abbas (edit): *Honour, Violence, Women and Islam*. Routledge 2011, pp. 218–231. (Gill 2011)

Gilman, Sander L.: “Barbaric” Rituals? In Susan Moller Okin: *Is Multiculturalism Bad for Women? With Respondents*. Edited by Joshua Cohen, Matthew Howard and Martha C. Nussbaum. Princeton University Press 1999, pp. 53–58. (Gilman 1999)

Ginat, Joseph: Women in Muslim Rural Society: Status and Role in Family and

Community. Transaction Books 1982. (*Ginat 1982*)

Gingrich, Andre: Conceptualizing Identities: Anthropological alternatives to essentializing difference and moralizing about others. In Gerd Bauman and Andre Gingrich (edit): *Grammars of Identity/Alterity – A Structural Approach*. BergHahn 2004, pp. 3–17. (*Gingrich 2004*)

Gloor, Daniela and Meier, Hanna: Culture and Ethnicity in (Re-)Constructing Domestic Homicides. In Ravi K. Thiara, Stephanie A. Condon and Monika Schrötle (edit): *Violence against Women and Ethnicity: Commonalities and differences across Europe*. Barbara Budrich Publishers 2011, pp. 399–413. (*Gloor and Meier 2011*)

Goldstein, Abraham S.: Defining the Role of the Victim in Criminal Prosecution. *Mississippi Law Journal* vol. 52 issue 3/1982, pp. 515–562. (*Goldstein 1982*)

Gunnarsson, Åsa and Svensson, Eva: Genusrättsvetenskap. Studentlitteratur AB 2009. (*Gunnarsson and Svensson 2009*)

Håkansson, Per Arne: Frihet och familj: En uppföljning av skyddade boenden för personer som hotas av hedersrelaterat våld. Socialstyrelsen, Institutet för utveckling av metoder i socialt arbete 2007. (*Håkansson 2007*)

Härkönen, Kirsti: Kunnian naisen taakka – Raportti seksuaalisesta väkivallasta Turkissa. Like Kustannus 2004. (*Härkönen 2004*)

Heiskanen, Markku and Piispa, Minna: Usko, toivo, hakkaus: kyselytutkimus miesten naisille tekemästä väkivallasta. Tilastokeskus 1998. (*Heiskanen and Piispa 1998*)

Hirvonen, Ari: Mitkä metodit? Yleisen oikeustieteen julkaisuja 17/2011. (*Hirvonen 2011*)

Holm, Pia: Kunniaväkivalta oikeudellisesta näkökulmasta. In Tanja Tauro and Marjo van Dijken (edit): *Kunnia konfliktina: näkökulmia ilmiön tunnistamiseen ja ennaltaehkäisyyn*. Mannerheimin lastensuojeluliiton Uudenmaan piiri 2009, pp. 134–149. (*Holm 2009*)

Hong, Tuuli: Discourses on Honour-related Violence in Finnish Policy Documents. Article abstract to be presented at the GENESO meeting, 11 October 2013. (*Hong 2013*)

Honig, Bonnie: "My Culture Made Me Do It". In Susan Moller Okin: *Is Multiculturalism Bad for Women? With Respondents*. Edited by Joshua Cohen, Matthew Howard and Martha C. Nussbaum. Princeton University Press 1999, pp. 35–40. (*Honig 1999*)

Honkasalo, Brynolf: Suomen rikosoikeus. Erityinen osa I, 1. Henkilöön kohdistuvat rikokset. Suomalainen lakimiesyhdistys 1970. (*Honkasalo 1970*)

Howarth, Caroline: Identity in Whose Eyes?: The role of representation in identity construction. *Journal for the Theory of Social Behaviour*, vol. 32 issue 2/2002, pp. 145–162. (*Howarth 2002*)

Huntington, Samuel P.: The Clash of Civilizations? The Debate. The Council of Foreign Relations 1996. (*Huntington 1996*)

Hurtta, Olli: Kuoleman aiheuttanut lähisuhdeväkivalta. Poliisiammattikorkeakoulu 2002. (*Hurtta 2002*)

Human Rights Watch: "He Loves You, He Beats You". Family Violence in Turkey and Access to Protection. Human Rights Watch Publications 2011. (*Human Rights Watch 2011*)

Ihmisoikeusliitto: Taustatietoa, Kunniaan liittyvät konfliktit. Ihmisoikeusliiton julkaisut 2011. (*Ihmisoikeusliitto 2011*)

Ilkkaracan, Pınar: Reforming the Penal Code in Turkey: The campaign for the reform of the Turkish Penal Code from a gender perspective. Institute of Development Studies 2007. (*Ilkkaracan 2007*)

Ilkkaracan, Pınar and Women for Women's Human Rights: Exploring the Context of Women's Sexuality in Eastern Turkey. *Reproductive Health Matters*, vol. 6 issue 12/1998, pp. 66–75. (*Ilkkaracan and Women for Women's Human Rights 1998*)

İskender, Salih Z.: Öğreti ve Yargısal Kararlar Işığında Töre Saikiyle İnsan Öldürmek Suçu – Namus Cinayetleri. Yetkin Yayınları 2011. (*İskender 2011*)

İstanbul Barosu Kadın Hakları Merkezi: Kadın Hakları Adli Yardım Eğitim Seminerleri. İstanbul Barosu Yayınları 2013. (*İstanbul Barosu Kadın Hakları Merkezi 2013*)

İstanbul Barosu Kadın Hakları Merkezi: Kadın Hakları: Seminer Notları. İstanbul Barosu Yayınları 2010. (*İstanbul Barosu Kadın Hakları Merkezi 2010*)

Jensen, Sune Q.: Othering, Identity Formation and Agency. *Qualitative Studies* vol. 2 issue 2/2011, pp. 63–78. (*Jensen 2011*)

Johansson, Kenneth (edit): Hedersmord: Tusen år av hederskulturer. Historiska media 2005. (*Johansson (edit) 2005*)

Jokila, Helena: Tahdonvastainen suostumus ja liiallisen luottamuksen hinta. Raiskauksen ja muiden seksuaalirikosten oikeudellisen tiedon konstruktio. Suomalainen lakimiesyhdistys 2010. (*Jokila 2010*)

Jokinen, Arto: Panssaroitu maskuliinisuus: Mies, väkivalta ja kulttuuri. Tampere University Press 2000. (*Jokinen 2000*)

Jørgensen, Marianne and Phillips, Louise: Discourses Analysis: As theory and method. Sage Publications 2002. (*Jørgensen and Phillips 2002*)

KA-MER: Kamer Kadın Merkezi Danışma Derneği Namus Adına İşlenen Cinayetler İstatistikleri. Fact sheet published 2007. (*KA-MER 2007*)

Kainulainen, Heini: Raiskattu? Tutkimus raiskausten käsitlemisestä rikosprosessissa. Oikeuspoliittisen tutkimuslaitoksen julkaisuja 212/2004. (*Kainulainen 2004*)

Kandiyoti, Deniz: Bargaining with Patriarchy. *Gender and Society* vol. 2 issue 3/1988, pp.

274–290. (*Kandiyoti 1988*)

Karalahti, Arto: Kunniaväkivalta – Kunniamurha kunniaväkivallan muotona. Turun Yliopisto, Oikeustieteellinen tiedekunta (pro gradu -tutkielma) 2008. (*Karalahti 2008*)

Kardam, Filiz (edit): The Dynamics of Honor Killings in Turkey: Prospects for action. The United Nations Development Programme and the United Nations Population Fund 2007. (*Kardam (edit) 2007*)

Karınca, Eray: Sorularla Kadına Yönelik Aile İçi Şiddet. Ankara Barosu Başkanlığı 2011. (*Karınca 2011*)

Kaya, Ayhan: Islamophobia as a Form of Governmentality: Unbearable weightiness in the politics of fear. Edited by Björn Fyrklund and Erica Righard. Malmö University, Malmö Institute for Studies of Migration, Diversity and Welfare 2012. (*Kaya 2012*)

Keisala, Hertta: Parisuhdeväkivalta moniammatillisen työn kohteena – Arviointitutimus Espoon yhteistyöverkoston ja Lyömättömän Linjan toiminnasta parisuhdeväkivallan lopettamiseksi. Oikeuspoliittisen tutkimuslaitoksen tutkimustiedonantoja 2006. (*Keisala 2006*)

Kelly, Liz: Surviving Sexual Violence. Polity Press 1988. (*Kelly 1988*)

Kelly, Liz: The Continuum of Sexual Violence. In Jalna Hanmer and Mary Maynard (edit): *Women, Violence and Social Control*. Humanities Press International 1987. (*Kelly 1987*)

Keskinen, Suvi: Troublesome Differences – Dealing with Gendered Violence, Ethnicity and “Race” in the Finnish Welfare State. *Journal of Scandinavian Studies in Criminology and Crime Prevention* vol. 12 issue 2/2011, pp. 153–172. (*Keskinen 2011a*)

Keskinen, Suvi: Women’s Rights, Welfare State Nationalism and Violence in Migrant Families. In Ravi K. Thiara, Stephanie A. Condon, and Monika Schrötte (edit): *Violence against Women and Ethnicity: Commonalities and differences across Europe*. Barbara Budrich Publishers 2011, pp. 257–272. (*Keskinen 2011b*)

Keskinen, Suvi; Tuori, Salla; Irni, Sari and Mulinari, Diana (edit): Complying with Colonialism: Gender, race and ethnicity in the Nordic region. Ashgate 2009. (*Keskinen et al (edit) 2009*)

Keskinen, Suvi: ”Honour-Related Violence” and Nordic Nation-Building. In Suvi Keskinen, Salla Tuori, Sari Irni and Diana Mulinari (edit): *Complying with Colonialism: Gender, race and ethnicity in the Nordic region*. Ashgate 2009, pp. 257–272. (*Keskinen 2009a*)

Keskinen, Suvi: ”Me” ja ”muut”? Kunniaan liittyvä väkivalta median kuvauksissa. In Tanja Tauro and Marjo van Dijken (edit): *Kunnia konfliktina: näkökulmia ilmiön tunnistamiseen ja ennaltaehkäisyyn*. Mannerheimin lastensuojeluliiton Uudenmaan piiri 2009, pp. 16–29. (*Keskinen 2009b*)

Keskinen, Suvi: Pelkkiä ongelmia? Maahanmuutto poliittisen keskustelun kohteena. In

Suvi Keskinen, Anna Rastas and Salla Tuori (edit): *En ole rasisti, mutta... : Maahanmuutosta, monikulttuurisuudesta ja kritiikistä*. Vastapaino 2009, pp. 33–45. (Keskinen 2009c)

Keskinen, Suvi: Perheammattilaiset ja väkivaltatyön ristiriidat: Sukupuoli, valta ja kielelliset käytännöt. Tampere University Press 2005. (Keskinen 2005)

Kocacık, Faruk: Aile İçi İlişkilerde Kadına Yönelik Şiddet. Cumhuriyet Üniversitesi Yayınları 2004. (Kocacık 2004)

Koğacıoğlu, Dicle: Knowledge, Practice, and Political Community: The making of the "custom" in Turkey. *Differences: A Journal of Feminist Cultural Studies* vol. 22 issue 1/2011, pp. 172–228. (Koğacıoğlu 2011)

Koğacıoğlu, Dicle: The Tradition Effect: Framing honor crimes in Turkey. *Differences: A Journal of Feminist Cultural Studies* vol. 15 issue 2/2004, pp. 118–152. (Koğacıoğlu 2004)

Koskenniemi, Martti: From Apology to Utopia. Oxford University Press 2005. (Koskenniemi 2005)

Koskenniemi, Martti: Human Rights, Politics and Love. *Mennesker & Rettigheter* vol. 19 issue 4/2001, pp. 33–45. (Koskenniemi 2001)

Krook, Mona Lena: Finns det feministiska metoder inom samhällsvetenskaplig forskning? *Kvinnovetenskaplig tidskrift* vol. 27 issue 2–3/2006, pp. 77–89. (Krook 2006)

Kukathas, Chandran: Liberalism and Multiculturalism: The politics of indifference. *Political Theory* vol. 26 issue 5/1998, pp. 686–699. (Kukathas 1998)

Kvinnoforum: A Resource Book for Working against Honour Related Violence. Manual based on the project *Honour Related Violence in Europe – mapping of occurrence, support and preventive measures* 2003. (Kvinnoforum 2003)

Kymlicka, Will: Contemporary Political Philosophy – An Introduction. Oxford University Press 2001. (Kymlicka 2001)

Kymlicka, Will: Liberal Complacencies. In Susan Moller Okin: *Is Multiculturalism Bad for Women? With Respondents*. Edited by Joshua Cohen, Matthew Howard and Martha C. Nussbaum. Princeton University Press 1999, pp. 31–34. (Kymlicka 1999)

Kymlicka, Will: Multicultural Citizenship. Oxford University Press 1995. (Kymlicka 1995)

Lappi-Seppälä, Tapio; Hakamies, Kaarlo; Koskinen, Pekka; Majanen, Martti; Melander, Sakari; Nuotio, Kimmo; Nuutila, Ari-Matti; Ojala, Timo and Rautio, Ilkka: Rikosoikeus. WSOYpro 2009. (Lappi-Seppälä et al 2009)

Lazaridis, Gabriella (edit): Security, Insecurity and Migration in Europe. Ashgate 2011. (Lazaridis (edit) 2011)

Lazaridis, Gabriella: Introduction. In Gabriella Lazaridis (edit): *Security, Insecurity and*

Migration in Europe. Ashgate 2011, pp. 1–11. (*Lazaridis 2011*)

Legg, Andrew: *The Margin of Appreciation in International Human Rights Law: Deference and Proportionality*. Oxford University Press 2012. (*Legg 2012*)

Lehti, Martti: *Naiset henkirikosten uhreina 2002–2007*. Oikeuspoliittinen tutkimuslaitos, verkkokatsauksia 11/2009. (*Lehti 2009*)

Leitzinger, Antero: *Ulomaalaiset Suomessa 1812–1972*. East-West Books Helsinki 2008. (*Leitzinger 2008*)

Leitzinger, Antero: *Suomen tataarit. Vuosina 1868–1944 muodostuneen muslimiyhteisön menetystarina*. East-West Books Helsinki 2006. (*Leitzinger 2006*)

Lernestedt, Clas: *Dit och tillbaka igen: Om individ och struktur i straffrätten*. Iustus förlag 2010. (*Lernestedt 2010*)

Liebmann, Louise L.: *Martyrer, kærlighed og kvindelige volds ofre: Selvbiografiske fortællinger om æresrelateret vold i Danmark*. *Chaos: Skandinavisk tidsskrift for religionshistoriske studier* vol. 56 issue 2/2012, pp. 119–141. (*Liebmann 2012*)

Lundgren, Eva: *Våldets normaliseringsprocess. Riksorganisationen för kvinnojourer och tjejjourer i Sverige (ROKS) 2013*. (*Lundgren 2013*)

Lundgren, Eva; Heimer, Gun; Westerstrand, Jenny and Kalliokoski, Anne-Marie: *Slagen dam. Mäns våld mot kvinnor i jämställda Sverige – en omfångsundersökning*. Brottsoffermyndigheten and Uppsala University 2001. (*Lundgren et al 2001*)

Lundgren, Eva: *Det får da være grenser for kjønn. Voldelig empiri og feministisk teori*. Universitetsforlaget 1993. (*Lundgren 1993*)

Lundgren, Eva: *Gud och alla andra karlar. Om kvinnomisshandlare*. Natur och Kultur 1992. (*Lundgren 1992*)

Lundgren, Eva and Westerstrand, Jenny: *Fadime, patriarkatet och våldet*. In Satu Apo, Anu Koivunen, Leena-Maija Rossi and Kirsi Saarikangas (edit): *Itkua ikä kaikki? Kirjoituksia naisesta, vallasta ja väkivallasta*. Suomalaisen Kirjallisuuden Seuran Toimituksia 2002, pp. 164–177. (*Lundgren and Westerstrand 2002*)

Lövkrona, Inger: *Den våldsamme mannen*. In Lövkrona, Inger (edit): *Mord, misshandel och sexuella övergrepp. Historiska och kulturella perspektiv på kön och våld*. Nordic Academic Press 2001, pp. 9–32. (*Lövkrona 2001*)

Masson, Sabine and Roux, Patricia: *Male Violence against Migrant Women: Denying rights in a racist gender system*. In Ravi K. Thiara, Stephanie A. Condon and Monika Schröttle (edit): *Violence against Women and Ethnicity: Commonalities and differences across Europe*. Barbara Budrich Publishers 2011, pp. 127–140. (*Masson and Roux 2011*)

Matikkala, Jussi: *Tahallisuudesta rikosoikeudessa*. Suomalainen lakimiesyhdistys 2005. (*Matikkala 2005*)

Matikkala, Jussi: Henkeen ja terveyteen kohdistuvat rikokset. Lakimiesliiton kustannus 2000. (*Matikkala 2000*)

McCall, Leslie: The Complexity of Intersectionality. *Signs: Journal of Women & Culture in Society* vol. 30 issue 3/2005, pp. 1771–1880. (*McCall 2005*)

Mellberg, Nea: När det överkliga blir verklighet. Mödrars situation när deras barn utsätts för sexuella övergrepp av fäder. Boréa 2002. (*Mellberg 2002*)

Merry, Sally Engle: Gender Violence: A cultural perspective. Wiley–Blackwell 2008. (*Merry 2008*)

Merry, Sally Engle: Transnational Human Rights and Local Activism: Mapping the middle. *American Anthropologist* vol. 108 issue 1 /2006, pp. 38–51. (*Merry 2006*)

Merry, Sally Engle: Rights Talk and the Experience of Law. *Human Rights Quarterly* vol. 25 issue 3/2003, pp. 343–381. (*Merry 2003a*)

Merry, Sally Engle: Constructing a Global Law – Violence against Women and the Human Rights System. *Law & Social Inquiry* vol. 28 issue 4/2003, pp. 941–977. (*Merry 2003b*)

Messman-Moore, Terri L. and Long, Patricia J.: Child Sexual Abuse and Revictimization in the Form of Adult Sexual Abuse, Adult Physical Abuse, and Adult Psychological Maltreatment. *Journal of Interpersonal Violence* vol. 15 issue 5/2000, pp. 489–502. (*Messman-Moore and Long 2000*)

Moser, Caroline and Moser, Annalise: Gender mainstreaming since Beijing: A review of success and limitations in international institutions. *Gender & Development* vol. 13 issue 2/2005, pp. 11–22. (*Moser and Moser 2005*)

Niemi-Kiesiläinen Johanna; Honkatukia, Päivi; Karma, Helena and Ruuskanen, Minna (edit): Oikeuden tekstit diskursseina. Suomalaisen lakimiesyhdistyksen julkaisuja 2006. (*Niemi-Kiesiläinen et al (edit) 2006*)

Niemi-Kiesiläinen, Johanna; Honkatukia, Päivi and Ruuskanen, Minna: Diskurssianalyysi ja oikeuden tekstit. In Johanna Niemi-Kiesiläinen, Päivi Honkatukia, Helena Karma and Minna Ruuskanen (edit): *Oikeuden tekstit diskursseina*. Suomalaisen lakimiesyhdistyksen julkaisuja 2006, pp. 21–42. (*Niemi-Kiesiläinen et al 2006*)

Niemi-Kiesiläinen, Johanna: Rikosprosessi ja parisuhdeväkivalta. WSOY 2004. (*Niemi-Kiesiläinen 2004*)

Nikunen, Minna: Surman jälkeen itsemurha. Kulttuuriset luokitukset rikosuutisissa. Tampere University Press 2005. (*Nikunen 2005*)

Nourse, Victoria: Passion's Progress: Modern law reform and the provocation defense. *The Yale Law Journal* vol. 106 issue 5/1997, pp. 1331–1448. (*Nourse 1997*)

Nyqvist, Leo and Hyvärinen, Salla (edit): DUSTI – Luottamusta Miehen Linjalla:

Maahanmuuttajamiehet ja ennaltaehkäisevä väkivaltatyö. Naisten Apu Espoossa ry and Lyömätön Linja 2012. (*Nyqvist and Hyvärinen 2012*)

Okin, Susan Moller: Is Multiculturalism Bad for Women? In Susan Moller Okin: *Is Multiculturalism Bad for Women? With Respondents*. Edited by Joshua Cohen, Matthew Howard and Martha C. Nussbaum. Princeton University Press 1999. (*Okin 1999*)

Özcan, Onur: 5237 Sayılı Türk Ceza Kanunu'nda Töre Saikiyle Kasten Öldürme Suçu. In Nur Centel (edit): *Ceza Hukukunda Kadının Şiddete Karşı Korunması*. Koç Üniversitesi Hukuk Fakültesi. On İki Levha Yayıncılık A.Ş. 2013, pp. 241–259. (*Özcan 2013*)

Özdamar, Demet: CEDAW Sözleşmesi, Seçkin Yayınevi 2009. (*Özdamar 2009*)

Özyeğin, Gül: Virginal Facades: Sexual freedom and guilt among young Turkish women. *European Journal of Women's Studies* vol. 16 issue 2/2009, pp. 103–123. (*Özyeğin 2009*)

Parekh, Bhikhu: A Varied Moral World. In Susan Moller Okin: *Is Multiculturalism Bad for Women? With Respondents*. Edited by Joshua Cohen, Matthew Howard and Martha C. Nussbaum. Princeton University Press 1999, pp. 69–75. (*Parekh 1999*)

Payton, Joanne: Collective Crimes, Collective Victims: A case study of the murder of Banaz Mahmod. In Mohammad Mazher Idriss and Tahir Abbas (edit): *Honour, Violence, Women and Islam*. Routledge 2011, pp. 67–79. (*Payton 2011*)

Peczenik, Aleksander: Vad är rätt? Om demokrati, rättssäkerhet, etik och juridisk argumentation. Norstedts juridik 1995. (*Peczenik 1995*)

Pervizat, Leylâ: Lack of Due Diligence: Judgements of crimes of honour in Turkey. In Mohammad Mazher Idriss and Tahir Abbas (edit): *Honour, Violence, Women and Islam*. Routledge 2011, pp. 142–153. (*Pervizat 2011*)

Pervizat, Leylâ: An Interdisciplinary and Holistic Attempt to Understand the Honor Killings in Turkey. In Mariza Corrêa and Erica Renata de Souza (edit) *Family Life: a Comparative Perspective on Crimes of Honour*. UNICAMP 2006, pp. 295–322. (*Pervizat 2006*)

Phillips, Nelson and Hardy, Cynthia: What Is Discourse Analysis? Sage Publications 2002. (*Phillips and Hardy 2002*)

Piispa, Minna; Heiskanen, Markku; Kääriäinen, Juha; Sirén, Reino: Naisiin kohdistunut väkivalta 2005. Oikeuspoliittisen tutkimuslaitoksen julkaisuja 225/2006. Yhdistyneiden Kansakuntien yhdessä toimiva Euroopan Kriminapolitiikan Instituutti (HEUNI) Publication Series 51/2006. (*Piispa et al 2006*)

Polreich, Erol R.: Culture-Based Violence against Immigrant Women in German Federal Court of Justice (BGH) Decisions. In Ravi K. Thiara, Stephanie A. Condon and Monika Schrötle (edit): *Violence against Women and Ethnicity: Commonalities and differences across Europe*. Barbara Budrich Publishers 2011, pp. 383–398. (*Polreich 2011*)

Raittila, Pentti: Journalismin maahanmuuttokeskustelu: hymistelyä, kriittisyyttä vai

rasismin tukemista? In Suvi Keskinen, Anna Rastas and Salla Tuori (edit): *En ole rasisti, mutta... : Maahanmuutosta, monikulttuurisuudesta ja kritiikistä*. Vastapaino 2009, pp. 67–75. (Raittila 2009)

Ramazanoğlu, Caroline and Holland, Janet: *Feminist Methodology: Challenges and choices*. Sage Publications 2002. (Ramazanoğlu and Holland 2002)

Rastas, Anna: Rasismin kiistäminen suomalaisessa maahanmuuttokeskustelussa. In Suvi Keskinen, Anna Rastas and Salla Tuori (edit): *En ole rasisti, mutta... : Maahanmuutosta, monikulttuurisuudesta ja kritiikistä*. Vastapaino 2009, pp. 47–64. (Rastas 2009)

Rawls, John: *The Law of Peoples*. Harvard University Press 1999. (Rawls 1999)

Räisä, Sara: Patriarkaalin kunniaväkivalta. Lapin Yliopisto, Oikeustieteiden tiedekunta (pro gradu -tutkielma) 2009. (Räisä 2009)

Renteln, Alison D.: *The Cultural Defence*. Oxford University Press 2004. (Renteln 2004)

Reynolds, Amy L and Constantine, Madonna G.: Feminism and Multiculturalism: Parallels and Intersections. *Journal of Multicultural Counseling & Development* vol. 32 extra issue/2004, pp. 346–357. (Reynolds and Constantine 2004)

Römkens, Renée and Lahlah, Esmah: Particularly Violent? The Construction of Muslim Culture as a Risk Factor for Domestic Violence. In Ravi K. Thiara, Stephanie A. Condon, and Monika Schrötle (edit): *Violence against Women and Ethnicity: Commonalities and differences across Europe*. Barbara Budrich Publishers 2011, pp. 79–96. (Römkens and Lahlah 2011)

Ruuskanen, Minna: Tuomioistuinratkaisut diskurssianalyysin kohteina. In Johanna Niemi-Kiesiläinen, Päivi Honkatukia, Helena Karma and Minna Ruuskanen (edit): *Oikeuden tekstit diskursseina*. Suomalaisen lakimiesyhdistyksen julkaisu 2006. (Ruuskanen 2006)

Ruuskanen, Minna: Hätävarjelu ja parisuhdeväkivalta. Suomalainen Lakimiesyhdistys 2005. (Ruuskanen 2005)

Said, Edward W.: *Orientalism. Western Conceptions of the Orient*. Penguin Books 1991. (Said 1991)

Said, Edward W.: *Covering Islam: How the media and the experts determine how we see the rest of the world*. Routledge & Kegan Paul PLC 1981. (Said 1981)

Salmi, Venla; Lehti, Martti; Sirén, Reino; Kivivuori, Janne and Aaltonen, Mikko: Perheväkivalta Suomessa. Oikeuspoliittinen tutkimuslaitos, verkkokatsauksia 12/2009. (Salmi et al 2009)

Sandahl, Julia: Konstruktioner av offer, sociala problem samt vi och dom – En fallstudie av mediadebatten efter mordet på Fadime Sahindal. C-uppsats i kriminologi, Department of Criminology at Stockholm University 2007. (Sandahl 2007)

Schlytter, Astrid; Högdin, Sara; Ghadimi, Mariet; Backlund, Åsa and Rexvid, Devin:

Hedersrelaterat förtryck och våld i Stockholms stad – Del II. Stockholms stad, rapport 2009. (*Schlytter et al 2009*)

Semati, Mehdi: Islamophobia, Culture and Race in the Age of Empire. *Cultural Studies* vol. 24 issue 2/2010, pp. 256–275. (*Semati 2010*)

Sen, Purna: "Crimes of honour", Value and Meaning. In Lynn Welchman and Sara Hossain (edit): *"Honour": Crimes, paradigms and violence against women*. Zed Books 2005, pp. 42–63. (*Sen 2005*)

Se'ver, Ayşan: In the Name of Fathers: Honour killings and some examples from south-eastern Turkey. *Atlantis: A Women's Studies Journal* vol. 30 issue 1/2005, pp. 129–145. (*Se'ver 2005*)

Se'ver, Ayşan and Yurdakul, Gökçeçiçek: Culture of Honour, Culture of Change: A feminist analysis of honor killings in rural Turkey. *Violence against Women* vol. 7 issue 9/2001, pp. 964–999. (*Se'ver and Yurdakul 2001*)

Shachar, Ayelet: Multicultural Jurisdictions: Cultural differences and women's rights. Cambridge University Press 2001. (*Shachar 2001*)

Shalhoub-Kevorkian, Nadera: Researching Women's Victimisation in Palestine: A socio-legal analysis. In Lynn Welchman and Sara Hossain (edit): *"Honour": Crimes, paradigms and violence against women*. Zed Books 2005, pp. 160–180. (*Shalhoub-Kevorkian 2005*)

Sheleff, Leon: The Future of Tradition: Customary law, common law and legal pluralism. Frank Cass 1999. (*Sheleff 1999*)

Sirén, Reino; Aaltonen, Mikko and Kääriäinen, Jukka: Suomalaisten väkivaltakokemukset 1980–2009, Kansallisen uhritutkimuksen tuloksia. Oikeuspoliittisen tutkimuslaitoksen tutkimustiedonantoja 2010. (*Sirén et al 2010*)

Sirman, Nükhet: Honour or the Murder of Women: How to conceptualize crimes against women globally. Paper for the conference *Contextualizing Gendered Violence: Interconnections of Violence, Nation and Masculinity*. Linköping University, Sweden and the Swedish Research Institute in Istanbul, Turkey. 8–10, 13–24 June 2011. (*Sirman 2011*)

Sirman, Nükhet: Kinship, Politics and Love: Honour in post-colonial contexts. Paper for the conference *International seminar on violence in the name of honour; theoretical and political challenges*, Istanbul Bilgi University 2004. (*Sirman 2004*)

Sirman, Nükhet: The Postcolonial Through the Prism of Love – Emotions and the constitution of the modern in Turkey. Paper for the *Tenth Biannual Conference for Theoretical Psychology*, Istanbul 2003. (*Sirman 2003*)

Slaughter, Anne-Marie: A Liberal Theory of International Law. *American Society of International Law Proceedings of the Annual Meeting* vol. 94 issue 1/2000, pp. 240–249. (*Slaughter 2000*)

Smart, Carol: Feminism and the Power of Law. Routledge 1989. (*Smart 1989*)

Soirila, Ukri: The European Court of Human Rights, Islam and Foucauldian Biopower. *Helsinki Law Review* vol. 5 issue 2/2011, pp. 365–400. (Soirila 2011)

Spatz, Melissa: A “Lesser” Crime: A comparative study of legal defences for men who kill their wives. *Columbia Journal of Law and Social Problems* vol. 24 issue 4/1991, pp. 597–638. (Spatz 1991)

Stets, Jan E. and Carter, Michael J.: A Theory of the Self for the Sociology of Morality. *American Sociological Review* vol. 77 issue 1/2012, pp. 120–140. (Stets and Carter 2012)

Strauss, Claudia and Quinn, Naomi: A Cognitive/Cultural Anthropology. In Robert Borofsky (edit): *Assessing Cultural Anthropology*. McGraw Hill 1994, pp. 284–297. (Strauss and Quinn 1994)

Sundström, Jessica: Kunnia suomalaisten miesten väkivallassa. In Tanja Tauro and Marjo van Dijken (edit): *Kunnia konfliktina: näkökulmia ilmiön tunnistamiseen ja ennaltaehkäisyyn*. Mannerheimin lastensuojeluliiton Uudenmaan piiri 2009, pp. 68–81. (Sundström 2009)

Tauro, Tanja and van Dijken, Marjo (edit): *Kunnia konfliktina: näkökulmia ilmiön tunnistamiseen ja ennaltaehkäisyyn*. Mannerheimin lastensuojeluliiton Uudenmaan piiri 2009. (Tauro and van Dijken (edit) 2009)

Terman, Rochelle L.: To Specify or Single Out: Should we use the term “honor killing”? *Muslim World Journal of Human Rights* vol. 7 issue 1/2010, pp. 1–39. (Terman 2010)

Tolvanen, Matti: Johdatus kriminaalipolitiikan teoriaan. Joensuun yliopiston oikeustieteellisiä julkaisuja 2005. (Tolvanen 2005)

Tolvanen, Matti: KKO 2000:29 Murha. In *KKO:n tapaukset kommentein 2000:I*. Talentum 2000. Available on: Suomenlaki.com. (Tolvanen 2000)

Tuori, Kaarlo: Foucault'n oikeus: kirjoituksia oikeudesta ja sen tutkimuksesta. WSOY Lakitieto 2002. (Tuori 2002)

Tuori, Kaarlo: Kriittinen oikeuspositivismi. Werner Söderström Lakitieto Oy 2000. (Tuori 2000)

Volpp, Leti: Framing Cultural Difference: Immigrant women and discourses of tradition. *Differences: A Journal of Feminist Cultural Studies* vol. 22 issue 1/2011, pp. 90–110. (Volpp 2011)

Volpp, Leti: Feminism versus Multiculturalism. *Columbia Law Review* vol. 101 issue 5/2001, pp. 1181–ii. (Volpp 2001)

Volpp, Leti: Blaming Culture for Bad Behavior. *Yale Journal of Law and the Humanities* vol. 12 issue 1/2000, p. 89–116. (Volpp 2000)

Welchman, Lynn and Hossain, Sara (edit): ”Honour”: Crimes, paradigms and violence

against women. Zed Books 2005. (*Welchman and Hossain (edit) 2005*)

Wikan, Unni: En fråga om heder. Översättning till svenska av Cajsa Mitchell. Ordfront förlag 2005. (*Wikan 2005*)

Williams, Linda M.: Understanding Child Abuse and Violence against Women: A life course perspective. *Journal of Interpersonal Violence* vol. 18 issue 4/2003, pp. 441–451. (*Williams 2003*)

Yıldız, Kerim; Bernu, Rachel and Stevenson, Julianne: The Situation of Kurdish Children in Turkey: Fact-finding mission and research report. Kurdish Human Rights Project 2010. (*Yıldız et al 2010*)

Yıldız, Kerim and Muller, Mark: Turkey's Accession to the EU: Democracy, Human Rights and the Kurds. Kurdish Human Rights Project, Bar Human Rights Committee of England and Wales and EU Turkey Civic Commission 2006. (*Yıldız and Muller 2006*)

Newspaper Articles

The Independent: Communities must end these awful abuses. Comment written by Jasvinder Sanghera, published 4 August 2012. (*The Independent: Communities must end these awful abuses*)

The Independent: Secret that emerged only after her sister was blackmailed. Article written by Jonathan Brown, published 4 August 2012. (*The Independent: Secret that emerged only after her sister was blackmailed*)

Online Sources

Aftonbladet: Dödade kvinnor och barnen som blev kvar. <<http://dodadekvinnor.aftonbladet.se/fall/>> Last accessed 11 November 2013. (*Aftonbladet: Dödade kvinnor och barnen som blev kvar*)

Aftonbladet: Fadimes död chockade hela Sverige – då tackade SVT nej. Article written by Peter Kadhammar, published 5 September 2008. <<http://www.aftonbladet.se/nyheter/article12731876.ab>> Last accessed 11 November 2013. (*Aftonbladet: Fadimes död chockade hela Sverige – då tackade SVT nej*)

Aftonbladet: Våldet mot kvinnor är problemet. Debate article written by Paulina de los Reyes, Susanne Johansson, Wuokko Knocke, Irene Molina and Diana Mulinari, published 15 March 2013. <<http://www.aftonbladet.se/debatt/article10265480.ab>> Last accessed 11 November 2013. (*Aftonbladet: Våldet mot kvinnor är problemet*)

Allen, Amy: Feminist Perspectives on Power. The Stanford Encyclopedia of Philosophy (Spring 2013 Edition) Edward N. Zalta (edit). <<http://plato.stanford.edu/entries/feminist->

[power/](#)> Last accessed 11 November 2013. (*Allen, Amy: Feminist Perspectives on Power*)

Anlayış: Mardin olayı: Töre değil katliam. Article written by Vahap Coşkun and Recep Doğan. <<http://www.anlayis.net/makaleGoster.aspx?makaleid=2012>> Last accessed 11 November 2013. (*Anlayış: Mardin olayı: Töre değil katliam*)

Centenary of women's full political rights in Finland: The General Strike and women's suffrage. <<http://www.helsinki.fi/sukupuolentutkimus/aanioikeus/en/articles/strike.htm>> Last accessed 11 November 2013. (*Centenary of women's full political rights in Finland: The General Strike and women's suffrage*)

CezaKanunu.net: TCK Madde 29. <<http://www.cezakanunu.net/tck-madde-29/>> Last accessed 11 November 2013. (*CezaKanunu.net: TCK Madde 29*)

Council of Europe: Campaign to combat violence against women, including domestic violence (2006–2008). <<http://www.coe.int/t/dg2/equality/DOMESTICVIOLENCECAMPAIGN/>> Last accessed 11 November 2013. (*Council of Europe: Campaign to combat violence against women, including domestic violence (2006–2008)*)

Council of Europe: Safe from Fear, Safe from Violence. Fact sheet concerning Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), Crimes Committed in the name of so-called honour. <http://www.coe.int/t/dghl/standardsetting/convention-violence/thematic_factsheets/Honour%20Crimes_EN.pdf> Last accessed 11 November 2013. (*Council of Europe: Safe from Fear, Safe from Violence*)

Council of Europe: The Istanbul Convention and the CEDAW framework: A comparison of measures to prevent and combat violence against women. <http://www.coe.int/t/dghl/standardsetting/equality/02_GenderEqualityProgramme/GEC/G_EC_3/Documents/IC_comparison_table.pdf> Last accessed 11 November 2013. (*Council of Europe: The Istanbul Convention and the CEDAW framework: A comparison of measures to prevent and combat violence against women*)

Council of Europe Treaty Office: Council of Europe Convention on preventing and combating violence against women and domestic violence CETS no.:210. <<http://www.conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=&DF=&CL=ENG>> Last accessed 20 November 2013. (*Council of Europe Treaty Office: Council of Europe Convention on preventing and combating violence against women and domestic violence CETS no.:210.*)

Dagbladet: Sviket mot Fadime. Debate article written by Eva Lundgren, published 20 May 2003. <<http://www.dagbladet.no/kultur/2003/05/20/369148.html>> Last accessed 11 November 2013. (*Dagbladet: Sviket mot Fadime*)

Daphne Toolkit: The Daphne Toolkit – An active resource from the Daphne Programme. <http://ec.europa.eu/justice_home/daphnetoolkit/html/welcome/dpt_welcome_en.html> Last accessed 11 November 2013. (*Daphne Toolkit: The Daphne Toolkit – An active resource from the Daphne Programme*)

Diyadinnet.com: Ağrı'da Tüyler Ürperten Töre Cinayeti. Published 23 April 2010. <<http://www.diyadinnet.com/HABER-7559-a%C4%9Fr%C4%B1da-t%C3%BCyler-%C3%BCrperen-t%C3%B6re-cinayeti>> Last accessed 11 November 2013. (*Diyadinnet.com: Ağrı'da Tüyler Ürperten Töre Cinayeti*)

DN Kultur: Här är sanningen i debatten om hedersvåld. Debate article written by Jenny Westerstrand, published 26 August 2013. <<http://www.dn.se/kultur-noje/kulturbedatt/har-ar-sanningen-i-debatten-om-hedersvald/>> Last accessed 11 November 2013. (*DN Kultur: Här är sanningen i debatten om hedersvåld*)

European Commission: Zero tolerance of violence against women and girls. <<http://ec.europa.eu/justice/gender-equality/gender-violence/>> Last accessed 11 November 2013. (*European Commission: Zero tolerance of violence against women and girls*)

European Union: Guidelines on violence against women and girls and combating all forms of discrimination against them. General Affairs Council. Published 8 December 2008. <<http://www.consilium.europa.eu/uedocs/cmsUpload/16173cor.en08.pdf>> Last accessed 11 November 2013. (*European Union: Guidelines on violence against women and girls and combating all forms of discrimination against them*)

Ess.fi: Halonen: "Intohimorikos" ja "kunniaväkivalta" olisi unohdettava. Published 30 June 2011. <<http://www.ess.fi/?article=330875>> Last accessed 11 November 2013. (*Ess.fi: Halonen: "Intohimorikos" ja "kunniaväkivalta" olisi unohdettava*)

Expressen: Mordet på Maria – "Det här är ett hedersmord". Article written by Magnus Andersson, published 22 April 2013. <<http://www.expressen.se/kvp/mordet-pa-maria---det-har-ar-ett-hedersmord/>> Last accessed 11 November 2013. (*Expressen: Mordet på Maria – "Det här är ett hedersmord"*)

Fadimes minnesfond: En samlingsstiftelse. <<http://www.fadimesminne.nu/index.html>> Last accessed 11 November 2013. (*Fadimes minnesfond: En samlingsstiftelse*)

Feministiskt Perspektiv: Åkesson förespråkar "hederskulturer". Article written by Toktam Jahangiry and Mehrtab Motavvas, published 9 August 2013. <<http://feministisktperspektiv.se/2013/08/09/akesson-foresprakar-hederskulturer/>> Last accessed 11 November 2013. (*Feministiskt Perspektiv: Åkesson förespråkar "hederskulturer"*)

Finnish Ministry of Justice: Unofficial translation of the Criminal Code of Finland. <<http://www.finlex.fi/en/laki/kaannokset/1889/en18890039.pdf>> Last accessed 11 November 2013. (*Finnish Ministry of Justice: Unofficial translation of the Criminal Code of Finland*)

GAPF (Glöm aldrig Pela & Fadime): Riksorganisation mot hedersvåld. <<http://gapf.se/>> Last accessed 11 November 2013. (*GAPF: Riksorganisation mot hedersvåld*)

Göteborgs stad: Hederskultur. <http://goteborg.se/wps/portal/invanare/omsorg-och-hjalp/missbruk-vald-och-brott/vald-och-hot/hederskultur/!ut/p/b1/04_Sj9Q1NLYwNzayNDUx0Y_Qj8pLLMtMTyzJzM9LzAHxo8>

[ziAwy9Ai2cDB0N_N0t3Qw8Q7wD3Py8fSw83c2BCiKBCgxwAEcDQvr9PPJzU_Vzo3IsADk0BjQ!/dl4/d5/L2dBISEvZ0FBIS9nQSEh/](http://www.goteborg.se/ziAwy9Ai2cDB0N_N0t3Qw8Q7wD3Py8fSw83c2BCiKBCgxwAEcDQvr9PPJzU_Vzo3IsADk0BjQ!/dl4/d5/L2dBISEvZ0FBIS9nQSEh/)> Last accessed 11 November 2013.
(*Göteborgs Stad: Hederskultur*)

Gutting, Gary: Michel Foucault. The Stanford Encyclopedia of Philosophy (Summer 2013 Edition) Edward N. Zalta (edit). <<http://plato.stanford.edu/entries/foucault/>> Last accessed 11 November 2013. (*Gutting, Gary: Michel Foucault*)

Habertürk: Almanya'da töre cinayeti. Published 7 May 2012.
<<http://www.haberturk.com/dunya/haber/740178-almanyada-tore-cinayeti>> Last accessed 11 November 2013. (*Habertürk: Almanya'da töre cinayeti*)

Habertürk: Töre mi, namus mu? Published 9 October 2012.
<<http://www.haberturk.com/polemik/haber/783765-tore-mi-namus-mu>> Last accessed 11 November 2013. (*Habertürk: Töre mi, namus mu?*)

Helsingin Sanomat: Helsingin poliisi piilottanut tyttöjä kunniaväkivallan uhan takia. Article written by Santtu Parkkonen, published 18 March 2006.
<<http://www.hs.fi/omaelama/artikkeli/Helsingin+poliisi+piilottanut+tytt%C3%B6j%C3%A4+kunniav%C3%A4kivallan+uhantakia/HS20060318SI1KA01so5>> Last accessed 11 November 2013. (*Helsingin Sanomat: Helsingin poliisi piilottanut tyttöjä kunniaväkivallan uhan takia*)

Iltalehti: Isä ampui tyttärensä – kunniamurha lievensi tuomiota. Published 23 January 2011. <http://www.iltalehti.fi/ulkomaat/2011012313058576_ul.shtml> Last accessed 11 November 2013. (*Iltalehti: Isä ampui tyttärensä – kunniamurha lievensi tuomiota*)

Ilta-Sanomat: Eroaikeet pakistanilaisnaisen surman takana – syyttäjä: rituaaliteurastus. Published 7 April 2010. <<http://www.iltasanomat.fi/kotimaa/art-1288334749665.html>> Last accessed 11 November 2013. (*Ilta-Sanomat, Eroaikeet pakistanilaisnaisen surman takana – syyttäjä: rituaaliteurastus*)

Lawlor, Leonard: Jaques Derrida. The Stanford Encyclopedia of Philosophy (Fall 2011 Edition) Edward N. Zalta (edit). <<http://plato.stanford.edu/entries/derrida/>> Last accessed 11 November 2013. (*Lawlor, Leonard: Jaques Derrida*)

Legislationonline.org: Criminal Code, Law no. 5237.
<<http://legislationonline.org/documents/action/popup/id/6872/preview>> Last accessed 11 November 2013. (*Legislationonline.org: Criminal Code, Law no. 5237*)

Länsiväylä: Espoon turvakodin ovet pannaan kiinni. Article written by Lotta Kvist, published 15 September 2012. <<http://www.lansivayla.fi/artikkeli/140667-espoon-turvakodin-ovet-pannaan-kiinni>> Last accessed 11 November 2013. (*Länsiväylä: Espoon turvakodin ovet pannaan kiinni*)

Mannerheimin Lastensuojeluliiton Uudenmaan piiri: Uhkana Kunnia. Välineitä viranomaisille kunniaväkivaltaan puuttumiseksi. <<http://uudenmaanpiiri-mll-fi-bin.directo.fi/@Bin/0e288f9043c5783f82159c88ce72e770/1381908793/application/pdf/134180/uhkanakunnia.pdf>> Last accessed 11 November 2013. (*Mannerheimin*

Lastensuojeluliiton Uudenmaan piiri: Uhkana Kunnia. Välineitä viranomaisille kunniaväkivaltaan puuttumiseksi)

Migrant Tales: Why does the Finnish media give so much attention to anti-immigration politicians and parties? Written by Enrique Tessieri, published 6 October 2013. <<http://www.migranttales.net/why-does-the-finnish-media-give-so-much-attention-to-anti-immigration-politicians-and-parties/>> Last accessed 11 November 2013. (*Migrant Tales: Why does the Finnish media give so much attention to anti-immigration politicians and parties?*)

Milliyet: Piknikte cinayet yeri belirlenmiş. Published 1 July 2013. <<http://gundem.milliyet.com.tr/piknikte-cinayet-yeribelirlenmis/gundem/detay/1730185/default.htm>> Last accessed 11 November 2013. (*Milliyet: Piknikte cinayet yeri belirlenmiş*)

Milliyet: Töre cinayeti. <<http://www.milliyet.com.tr/tore-cinayeti/>> Last accessed 11 November 2013. (*Milliyet: Töre cinayeti*)

Milliyet: Töre kurbanı Hatice toprağa verildi. Published 27 December 2012. <<http://gundem.milliyet.com.tr/tore-kurbani-hatice-topraga-verildi/gundem/gundemdetay/27.12.2012/1647908/default.htm>> Last accessed 11 November 2013. (*Milliyet: Töre kurbanı Hatice toprağa verildi*)

Nätverket mot hedersrelaterat våld: Hedersnytt, Tio år efter mordet på Fadime Sahindal. 2012 vår/höst – dubbelnummer. <<http://minmedia.minheder.nu/2012/10/hedersnytt2012N5.pdf>> Last accessed 11 November 2013. (*Nätverket mot hedersrelaterat våld: Hedersnytt, Tio år efter mordet på Fadime Sahindal*)

Office of the High Commissioner of Human Rights: Committee on the Elimination of Discrimination against Women. <<http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>> Last accessed 11 November 2013. (*OHCHR: Committee on the Elimination of Discrimination against Women*)

Office of the High Commissioner of Human Rights: Fact Sheet no. 23, Harmful Traditional Practices Affecting the Health of Women and Children. <<http://www.ohchr.org/Documents/Publications/FactSheet23en.pdf>> Last accessed 11 November 2013. (*OHCHR: Fact Sheet no. 23*)

Office of the High Commissioner of Human Rights: International Human Rights Law. <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>> Last accessed 11 November 2013. (*OHCHR: International Human Rights Law*)

Office of the High Commissioner of Human Rights: Special Rapporteur on violence against women, its causes and consequences. <<http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SRWomenIndex.aspx>> Last accessed 11 November 2013. (*OHCHR: Special Rapporteur on violence against women, its causes and consequences*)

Office of the High Commissioner for Human Rights: What are human rights? <<http://www.ohchr.org/en/issues/Pages/WhatareHumanRights.aspx>> Last accessed 11 November 2013. (*OHCHR: What are human rights?*)

Radikal: Kadınlar, töreler ve ötekiler. Debate article written by Türkan Sancar, published 9 March 2008. <http://www.radikal.com.tr/ek_haber.php?ek=r2&haberno=8090> Last accessed 11 November 2013. (*Radikal: Kadınlar, töreler ve ötekiler*)

Sıcak Haberler: Mardin’de Töre Cinayeti. Published 12 February 2012. <<http://www.sicakhaberler.com/mardinde-tore-cinayeti/>> Last accessed 11 November 2013. (*Sıcak Haberler: Mardin’de Töre Cinayeti*)

Sociologists for Women in Society: Gendered Violence Fact Sheet. Prepared by Ph.D. Laurel Westbrook, Department of Sociology, Grand Valley State University 2009. <http://www.socwomen.org/images/stories/resources/fact_sheets/fact_12-2009-gend-violence.pdf> Last accessed 11 November 2013. (*Sociologists for Women in Society: Gendered Violence Fact Sheet*)

Sondakika Haberleri: Cinayet haberleri. <<http://www.sondakikahaberleri.info.tr/cinayet/>> Last accessed 11 November 2013. (*Sondakika Haberleri: Cinayet haberleri*)

The Advocates for Human Rights: Violence against Women in Turkey. <<http://www.stopvaw.org/turkey>> Last accessed 11 November 2013. (*The Advocates for Human Rights: Violence against Women in Turkey*)

The Free Dictionary by Farlex: Crime of Passion. <<http://legal-dictionary.thefreedictionary.com/crime+of+passion>> Last accessed 11 November 2013. (*The Free Dictionary: Crime of Passion*)

The Guardian: Turkey Opens Its Eyes to Domestic Violence. Article written by Elif Shafak, published 23 August 2011. <<http://www.guardian.co.uk/commentisfree/2011/aug/23/turkey-domestic-violence-honour-killings>> Last accessed 11 November 2013. (*The Guardian: Turkey opens its eyes to domestic violence*)

The International Herald Tribune: “Honour” Killing: Woman shot dead by brother, accomplices. Published 21 September 2013. <<http://tribune.com.pk/story/607163/honour-killing-woman-shot-dead-by-brother-accomplices/>> Last accessed 11 November 2013. (*The International Herald Tribune: “Honour” Killing: Woman shot dead by brother, accomplices*)

The United Nations: United Nations Secretary-General’s Campaign UNiTE to End Violence against Women. <<http://www.un.org/en/women/endviolence/>> Last accessed 11 November 2013. (*The United Nations: United Nations Secretary-General’s Campaign UNiTE to End Violence against Women*)

Ulkoasiainministeriö: YK:n naisten syrjinnän poistamista käsittelevä komitea antoi Suomelle suosituksensa naisten oikeuksien toteuttamisesta. Published 16 February 2001. <<http://formin.finland.fi/public/?contentid=53843&contentlan=1&culture=fi-FI>> Last accessed 11 November 2013. (*Ulkoasiainministeriö: YK:n naisten syrjinnän poistamista*)

käsitlevä komitea antoi Suomelle suosituksensa naisten oikeuksien toteuttamisesta)

United Nations Treaty Collection: CEDAW Signatories and Ratifications. <http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en> Last accessed 11 November 2013. (*UNTS: CEDAW Signatories and Ratifications*)

Varken hora eller kuvad: Inbjudan: Till minne av Fadime Sahindal. Published 7 January 2013. <<http://www.varkenhoraellerkuvad.se/2013/01/07/inbjudan-till-minne-av-fadime-sahindal/>> Last accessed 11 November 2013. (*Varken hora eller kuvad: Inbjudan: Till minne av Fadime Sahindal*)

Väestöliitto: Seksuaalinen väkivalta. <http://www.vaestoliitto.fi/parisuhde/tietoa_parisuhteesta/parisuhdevakivalta/seksuaalinen-vakivalta/> Last accessed 11 November 2013. (*Väestöliitto: Seksuaalinen väkivalta*)

Väestöliitto: Väkivallan yleisyys. <http://www.vaestoliitto.fi/parisuhde/tietoa_parisuhteesta/parisuhdevakivalta/vakivallan-yleisyys/> Last accessed 11 November 2013. (*Väestöliitto: Väkivallan Yleisyys*)

Wikipedia: Fadime Sahindal. <http://sv.wikipedia.org/wiki/Fadime_Sahindal> Last accessed 11 November 2013. (*Wikipedia: Fadime Sahindal*)

Wikipedia: Fadime Şahindal. <http://fi.wikipedia.org/wiki/Fadime_%C5%9Eahindal> Last accessed 11 November 2013. (*Wikipedia: Fadime Şahindal*)

Wikipedia: Honor Killing of Fadime Şahindal. <http://en.wikipedia.org/wiki/Honor_killing_of_Fadime_%C5%9Eahindal> Last accessed 11 November 2013. (*Wikipedia: Honor Killing of Fadime Şahindal*)

World Health Organization: Violence against women. <<http://www.who.int/mediacentre/factsheets/fs239/en/>> Last accessed 11 November 2013. (*World Health Organization: Violence against women*)

Violence Prevention Alliance: Definition and typology of violence. <<http://www.who.int/violenceprevention/approach/definition/en/>> Last accessed 11 November 2013. (*Violence Prevention Alliance: Definition and typology of violence*)

Yle Uutiset: Index: Finland third in gender equality in EU. Published 13 June 2013. <http://yle.fi/uutiset/index_finland_third_in_gender_equality_in_eu/6688240> Last accessed 11 November 2013. (*Yle Uutiset: Index: Finland third in gender equality in EU*)

Yle Uutiset: Pakistanilaisnaisen surma käräjillä. Published 27 October 2010. <http://yle.fi/uutiset/pakistanilaisnaisen_surma_karajilla/2091550> Last accessed 11 November 2013. (*Yle Uutiset: Pakistanilaisnaisen surma käräjillä*)

Interviews

(in alphabetical order according to last name)

Interview with Ceren Belge, Assistant Professor at Concordia University. Istanbul, 30 July 2013 at 10.00–11.30 a.m. (*Ceren Belge, 30 July 2013*)

Interview with Åsa Eldén, Senior Researcher at the Swedish Research Institute in Istanbul and Visiting Lecturer at Boğaziçi University. Istanbul, 24 June at 10.00–11.00 a.m. (*Åsa Eldén, 24 June 2013*)

Interview with Yakın Ertürk, Member of the Council of Europe Committee on the Prevention of Torture (CPT) and former United Nations Special Rapporteur on violence against women, its causes and consequences. Telephone interview, 9 July 2013 at 3.50–4.30 p.m. (*Yakın Ertürk, 9 July 2013*)

Interview with Natalie Gerbert, Executive Director at MonikaNaiset Resource Center (MonikaNaiset liitto ry). Helsinki, 7 June 2013 at 3.00–3.30 p.m. (*Natalie Gerbert, 7 June 2013*)

Interview with Miira Hartikainen, Responsible Social Worker at Asumisyksikkö Kilpola, Pääkaupungin Turvakoti ry. Helsinki, 7 February 2013 at 3.30–4.30 p.m. (*Miira Hartikainen, 7 February 2013*)

Interview with Heidi Kontkanen, Responsible Administrator at Pääkaupungin Turvakoti ry. Helsinki, 22 February 2013 at 2.30–3.15 p.m. (*Heidi Kontkanen, 22 February 2013*)

Interview with Matti Kupila, Psychotherapist at Jussi-työ. Helsinki, 7 February 2013 at 10.00–11.00 a.m. (*Matti Kupila, 7 February 2013*)

Interview with Louise Lund Liebmann, Ph.D. Student at Institut for Tværkulturelle og Regionale Studier at the University of Copenhagen. Copenhagen, 13 September 2013 at 11.30 a.m.–12.30 p.m. (*Louise Lund Liebmann, 13 September 2013*)

Interview with Nükhet Sirman, Professor at the Department of Sociology, Boğaziçi University. Istanbul, 11 July 2013 at 11.20–12.50 a.m. (*Nükhet Sirman, 11 July 2013*)

Interview with Kostas Tassopoulos, Chief consultant on work against violence at Miehen Linja. Espoo, 5 June 2013 at 9.00–9.55 a.m. (*Kostas Tassopoulos, 5 June 2013*)

Interview with Ferya Taş, Ph.D. student at King's College, London. Skype interview, 16 August 2013 at 7.00–8.00 p.m. (*Ferya Taş, 16 August 2013*)

Interview with Tanja Völker and Martina Gaidzik, Volunteers and social workers at Mor Çatı. Istanbul, 29 January 2013 at 2.30–4.00 p.m. (*Tanja Völker and Martina Gaidzik, 29 January 2013*)

Interview with Jenny Westerstrand, LL.D. and researcher at Uppsala University. Uppsala, 17 October 2013 at 12.30–14.30 p.m. (*Jenny Westerstrand, 17 October 2013*)

Lectures and Other Relevant Material

(in alphabetical order according to last name)

Christine Chinkin: The Istanbul Convention: Contents, significance and added value. Speech held at the seminar *Naisiin kohdistuva väkivalta ja perheväkivalta ihmisoikeusloukkauksena: Mitä uutta Istanbulin sopimus tuo mukanaan?* Organised by the University of Turku and the Human Rights Centre of Finland at the Finnish Parliamentary building, 27 May 2013. (*Christine Chinkin, 27 May 2013*)

Åsa Eldén: Women's Human Rights and (Honour) Violence in Turkey and Sweden – A Cultural Detour. Lecture held at the Swedish Research Institute in Istanbul. 27 June 2013 at 2.30–4.30 p.m. (*Åsa Eldén, 27 June 2013*)

Helen Gremillion: The Analytic and Institutional Space of Transdisciplinary Gender Studies. 23 May 2013. Oral presentation of research paper from the 5th *Christina Conference on Gender Studies: Feminist Thought – Politics of Concept*. University of Helsinki, 23–25 May 2013. (*Helen Gremillion, 23 May 2013*)

Heidi Kinnunen: The Concept of the Public Sphere and the Feminist Critique of Public/Private Distinction in the Works of Iris Marion Young, Nancy Frasen and Şeyla Benhabib. 24 May 2013. Oral presentation of research paper from the 5th *Christina Conference on Gender Studies: Feminist Thought – Politics of Concept*. University of Helsinki, 23–25 May 2013. (*Heidi Kinnunen, 24 May 2013*)

Kevät Nousiainen: Oral Comment on *The Istanbul Convention: Contents, significance and added value*. Held at the seminar *Naisiin kohdistuva väkivalta ja perheväkivalta ihmisoikeusloukkauksena: Mitä uutta Istanbulin sopimus tuo mukanaan?* Organised by the University of Turku and the Human Rights Centre of Finland at the Finnish Parliamentary building, 27 May 2013. (*Kevät Nousiainen, 27 May 2013*)

Gudrun Schyman: Det talade ordet gäller! Speech held at the Left Party Congress in Sweden, 2002. (*Gudrun Schyman, Left Party Congress 2002*)

Abbreviations

AKP	Justice and Development Party (<i>tr: Adalet ve Kalkınma Partisi</i>)
BRÅ	The Swedish National Council for Crime Prevention (<i>se: Brottsförebyggande rådet</i>)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CETS	Council of Europe Treaty Series
CoE	Council of Europe
DEVAW	Declaration on the Elimination of Violence Against Women
ECHR	Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms
ECOSOC	United Nations Economic and Social Council
ECtHR	European Court of Human Rights
ECRI	European Commission against Racism and Intolerance
EU	European Union
EUMC	European Monitoring Centre on Racism and Xenophobia
GAPF	The Swedish National Association against Honour Related Violence (<i>se: Glöm aldrig Pela och Fadime, Riksorganisation mot hedersvåld</i>)
HE	Government Bill (<i>fi: Hallituksen esitys</i>)
KK	Written Question (<i>fi: Kirjallinen kysymys</i>)
KKO	The Supreme Court of Finland (<i>fi: Korkein oikeus</i>)
LaVM	Law Committee Memorandum (<i>fi: Lakivaliokunnan mietintö</i>)
LGBTIQA	Lesbian, gay, bisexual, transgender, intersex, queer/questioning and asexual
LNTS	League of Nations Treaty Series
NGO	Non-governmental organisation
OHCHR	Office of the High Commissioner for Human Rights
SM	The Finnish Ministry of the Interior (<i>fi: Sisäasiainministeriö</i>)
SOU	Official Investigations by the Swedish State (<i>se: Statens offentliga utredningar</i>)
SRVAW	United Nations Special Rapporteur on violence against women, its causes and consequences
STM	The Finnish Ministry of Social Affairs and Health (<i>fi: Sosiaali- ja terveysministeriö</i>)
TEM	The Finnish Ministry of Employment and the Economy (<i>fi: Työ- ja elinkeinoministeriö</i>)

UN	United Nations
UNTS	United Nations Treaty Collection
U.S.	United States of America
VAW	Violence against Women
WHO	World Health Organization

“Ya benimsin ya toprağın.”

You are either mine, or the earth’s.

Anonymous

*“Jos toinen meistä lähtee,
niin toinen meistä lähtee laudoissa
ja toinen raudoissa.”*

*If one of us leaves,
one will leave in a coffin,
and the other one in handcuffs.*

Comment uttered by the defendant in case F1

1 Introduction: Gender, violence and culture

On a winter's evening in January 2002, Fadime Şahindal was murdered by her father in her apartment in Uppsala, Sweden. Her murder was head news and largely debated in major Swedish newspapers,¹ her funeral broadcast by television and attended by the Swedish crown princess, the Minister for Integration and several other important politicians.² Her murder is well known in several countries, there are conferences and memory funds organised in honour of her memory³ and Wikipedia pages in several languages about her life and murder.⁴ Her murder is considered important in Swedish modern history: *Fadime*⁵ has become a symbol for many cases of gendered violence.⁶ Two days after the murder of Fadime Şahindal, Mikaela Strandberg was murdered by her former partner in an apartment in Borås, Sweden. Her murder was not extensively reported in major Swedish newspapers, nor was her funeral broadcast or visited by members of the Swedish Royal Family, or important politicians. The reason I became aware of her murder was that it was included in a collection of murders of women, registered by a main Swedish evening paper.⁷

The crucial difference, which made the murder of Fadime Şahindal, but not Mikaela Strandberg, a broadly reported event in media, was that it was addressed, recognised and reported as a so-called *honour killing*, while the murder of Mikaela Strandberg was *not* considered a killing related to a specific concept of *honour*.⁸ Even though this study does not address the Swedish context – but mainly Finland and Turkey, and partly the international legal and policy framework – the comparison of the murders of Fadime Şahindal and Mikaela Strandberg is striking and explanatory of the purpose of this study. In the Finnish context, the murder of Fadime Şahindal has had a great effect on public

¹ On the analysis of the Swedish media debates and discussions, see Ekström 2009 and 2005, pp. 23–40.

² Aftonbladet: Fadimes död chockade hela Sverige – då tackade SVT nej.

³ For examples of these, see Varken hora eller kuivad: Inbjudan: Till minne av Fadime Sahindal, Nätverket mot hedersrelaterat våld: Hedersnytt, Tio år efter mordet på Fadime Sahindal, GAPF: Riksorganisation mot hedersvåld and Fadimes minnesfond: En samlingsstiftelse.

⁴ Wikipedia: Honor Killing of Fadime Şahindal, Wikipedia: Fadime Sahindal and Wikipedia: Fadime Şahindal.

⁵ After her murder, Fadime Şahindal lost her last name to the Swedish public. This infantilisation and intimidation is described by ethnologist Simon Ekström, referring to the comments of the Swedish writer Stieg Larsson. Ekström 2009, p. 17.

⁶ Sandahl 2007.

⁷ Aftonbladet: Dödade kvinnor och barnen som blev kvar.

⁸ In this study, I intend to use the terms so-called *honour killings* and *honour*, in order to point out that I do not necessarily agree with the utilisation of *honour* and gendered violence in the same context, nor do I find a reference to only certain definitions of gendered violence meaningful, if gendered violence is not addressed as a whole. Hence, my usage of italic writing and the word “so-called” is stressing my *dissociation* from the term. About the universality of gendered violence, see Gill 2011 and Shalhoub-Kevorkian 2005.

awareness and discussion of so-called *honour killings*, and the issue was taken up as a written question in the Finnish Parliament merely weeks after the killing of Fadime Şahindal.⁹

After the terrorist attacks in New York, 11 September 2001, the polarisation of the western and non-western world, xenophobia and racism against Muslims – also referred to as *islamophobia*¹⁰ – has grown in western countries.¹¹ It is important to regard the public discussions and the media reporting, primarily concentrated on the West and the Global North¹², on so-called *honour killings*, public veiling, religious circumcision of boys, arranged and forced marriages, the discourse on terrorism and securitisation, etc. towards the background of increased cultural racism, particularly against Muslims and Muslim immigrants.¹³ However, this connection is not made here in order to depict these phenomena as consequences of Islamic beliefs or Muslim faith, but rather to *challenge* certain views represented in western public debates and media reporting. It is important to notice how the interest of the public, the media and the authorities in *certain types* of gendered violence has increased more or less worldwide.¹⁴ The stories about the victims in the cases recognised as related to *honour* are often retold by the media in a similar manner:¹⁵ a young, Muslim woman, whose *bad behaviour* is not accepted by her family – often addressing her sexuality and/or her choice of a so-called *western lifestyle* – is killed by one or several family members.¹⁶

⁹ KK 134/2002.

¹⁰ Here, *islamophobia* is referred to as racism, however, some scholars claim that they are not exactly the same. See Semati 2010 and Kaya 2012.

¹¹ Semati 2010, EUMC 2002, Sen 2005, p. 52, Abu-Lughod 2011, p. 43 and Allen 2010, pp. 123–138.

¹² With the *Global North*, I refer primarily to European countries, North America, Australia, Israel, South Africa and some other countries. In this study, *the West* is used in a similar fashion, referring primarily to perceptions of societal development. However, in this study I have primarily used the terms *west* and *western*, aiming to also cover the so-called *Global North*.

¹³ See Lazaridis (edit) 2011. See the critique of the discussion of the possible harmful consequences of *multiculturalism* in Benhabib 2002, pp. 100–104, and the discourses between power, Islam and biopolitical risk technologies in the case law of the ECtHR, Soirila 2011.

¹⁴ Much due to dominating western discourses on the culturalisation of gendered violence. See A/HRC/4/34. An interesting example here is the Swedish case, where Swedish authorities have made great investments in mechanisms for prevention and protection of victims, as well as research of so-called *honour violence*. Eldén 2011, pp. 129–130. For examples of the research, see Håkansson 2007, SS 2007-131-27, Schlytter *et al* 2009 and BRÅ Rapport 2012:1.

¹⁵ Liebmann 2012. This was discussed in my interview with Louise Lund Liebmann, who is writing her Ph.D. dissertation on the topic. Louise Lund Liebmann, 13 September 2013.

¹⁶ The media discourse often fails to recognise the broader patterns of family violence, focusing merely on the violence faced by the young woman. Thus, the violence faced by e.g. mothers is easily forgotten. Eldén 2011, p. 138. On the media discourse, see e.g. The Independent: Communities must end these awful abuses, The Independent: Secret that emerged only after her sister was blackmailed, Expressen: Mordet på Maria – ”Det här är ett hedersmord”, Iltalehti: Isä ampui tyttärensä – kunniamurha lievensi tuomiota, Milliyet: Piknikte cinayet yeri belirlenmiş, Milliyet: Töre kurbanı Hatice toprağa verildi,

The *research question* investigated in this study is whether there are *differences* in the ways that gendered violence is described in judgements, depending on *gender* and *perceived culture*¹⁷ of the perpetrator and/or victim. Hence, the study analyses *constructions* of gendered violence in the Finnish and Turkish legal contexts through analysing national court judgements, towards a background of certain societal and historical analyses. The judgements analysed are cases where women have been killed by their partners, former partners and/or family members. In particular, this study is interested in the creation of legal facts and the formation of legal argumentation and how these reflect *power relations* as related to certain discourses. The categorisation of gendered violence, e.g. of so-called *honour killings* and other forms of gender violence, is central in the study.

The study begins with the introduction of the methodological and theoretical frameworks in chapter two. In this chapter, the theoretical and methodological merits of discourse analysis and social constructionism are viewed against the outlines of feminist theory, intersectionality and theories of alterity. In the third chapter, the categorisation of so-called *individual* and *collective forms* of gendered violence is discussed, with focus on academic debate, authority and NGO work. Furthermore, chapter three links the discussion of perceived differences in gendered violence to the discussion of perceived incompatibility between feminism and multiculturalism.

In chapter four, the international, Finnish and Turkish legal and policy contexts regarding gendered violence (with focus on death as the outcome) and perceived majority/minority positions¹⁸ are presented. In the fifth chapter, the findings of the *discourse analysis*¹⁹ performed in the study, the discourses of the judgements (*male violence, female behaviour, normalised/individual violence* and *essentialised/collective violence*) as well as their intersections, are described and analysed. In the final chapter, the results of the study are evaluated and discussed. The aim of this chapter is to provide an answer to the research question, based on the research performed in the study. Here, I use the phrase *an answer*

Habertürk: Almanya'da töre cinayeti and The International Herald Tribune: "Honour" Killing: Woman shot dead by brother, accomplices.

¹⁷ With *perceived culture*, I refer to the perception of majority/minority cultural membership that is incorporated by the judge(s) in the judgements. In this sense, the perception of culture is largely connected to grounds of ethnicity and/or race.

¹⁸ With a focus on cultural/ethnic/racial minorities. I use the term *perceived minorities*, since I want to highlight the fact that a minority is largely a social construction, dividing human beings on the basis of certain perceptions. Thus, my approach to minorities has similarities with the term *minoritised*, a way of referring to a minority as a result of socio-historic processes rather than merely numbers, language, religion, etc. Chantler and Gangoli 2011.

¹⁹ To be explained in chapter 2 *Theoretical and Methodological Framework: A critical perspective on law*.

instead of *the answer*, since I want to highlight the *subjectivity* of the researcher and the research. Therefore, it is possible, and likely, that another researcher, who would take different elements into consideration, would come up with results and answers to the proposed research question that differ from mine.

*Those who are interpellated as feminine
are cast as the ones to be represented.*

Sociologist Dicle Koğacıoğlu²⁰

²⁰ Koğacıoğlu 2011, p. 192.

2 Theoretical and Methodological Framework: A critical perspective on law

In this chapter, the study's theoretical and methodological outlines – *feminism*, *intersectionality*, *alterity*, *social constructionism* and *discourse analysis* – are clarified and shortly presented in the way that they are utilised in this thesis. It is important to point out that this study does not separate theory from methodology, but rather sees them as *interdependent*.²¹ This study challenges the positivist view of law as non-political. On the contrary, it makes the critical claim that law is *inherently* political, and that it is necessary to recognise this relationship in order to be able to genuinely strive for, and achieve, justice. The interdisciplinary use of theory, methodology and methods in this study widens the scope of critique beyond mere legal theory.²²

The paradigm – or *épistème* – of law, is largely influenced by the idea of objectivity.²³ This also explains the fact that law is largely resistant of alternative views on law, and so-called *external critique*,²⁴ for instance the critique posed by feminist theory.²⁵ Even though legal language is *formally* described as neutral with reference to gender, the *reality* of law is not: frequently discriminating women.²⁶ In this study, feminist theories²⁷ are used as means of challenging the legal ideal of *objectivity*, in particular stressing the perspective of the (female) victim.²⁸ Thus, feminist theories are utilised to reveal the subjectivity and implicit power structures behind descriptions, categorisations and constructions of gendered violence in law.²⁹ Furthermore, feminist theories are used in order to highlight the universality of gendered violence, and to reveal attempts of rendering gendered violence invisible.³⁰ Rather than searching for an objective truth, the interest of this study is the

²¹ See Phillips and Hardy 2002, Ramazanoğlu and Holland 2002 and Krook 2006.

²² Regarded as typical for e.g. the study of gender and law, legal anthropology or critical legal studies. See Hirvonen 2011, pp. 29 and 50–51.

²³ About the objectivity paradigm, see Chomsky 2003 and Bladini 2013, pp. 38–43.

²⁴ See Tuori 2000, pp. 234–240 and Hirvonen 2011, pp. 50–55.

²⁵ Smart 1989, p. 2.

²⁶ Baytok 2012, p. 120.

²⁷ In particular structural feminist theories, with elements of radical and critical feminism. This is not uncommon within the Nordic tradition of gender and law studies. Gunnarsson and Svensson 2009, pp. 119–178. Examples of feminist theories employed in this study are the theories of the *normalisation process of violence* and the *continuum of violence*, as described in chapter 4 *Legal and Policy Approaches: A universal issue?*

²⁸ In all the judgements analysed in this study, the victims were female.

²⁹ See Niemi-Kiesiläinen 2004, Ruuskanen 2005 and Jokila 2010.

³⁰ As done in multiple feminist research. Lundgren *et al* 2001, SOU 2004:121 and Yakın Ertürk, 9 July 2013.

feminist analysis and deconstruction³¹ of legal reasoning, often *perceived* as manifestations of the objective truth:³² effectively aiming to making law more just.

However, this study does not only engage in a feminist perspective, but also an anti-racist one, thus, the *approach* aims to be intersectional: to address the vulnerability of minority women without engaging in a racist discourse.³³ With *intersectional* and *intersectionality*, I refer to the study of discrimination on multiple grounds, its intersections and interactions.³⁴ Intersectionality can be described as an academic strive towards the research of “relationships among multiple dimensions and modalities of social relationships and subject formations”.³⁵ The main grounds of discrimination investigated in this study are *gender* and *cultural/ethnic/racial minority positions*.³⁶ Thus, the intersectional perspective of the study can be considered to support the feminist perspective, investigating the *interests* behind constructions and categorisations of gendered violence – and the *effects* of these – in particular for the victim. Assuming that women and minority group members are vulnerable in society, this study is particularly interested in the perspective of the female minority group member.

In the investigation of gendered violence, the study engages in the perceptions of difference, resulting in categorisation. Here, difference is regarded in the light of *essentialisation* and *alterity*. Alterity, the process of “othering” in ways of *essentialising* the other, can be rendered visible by utilising critical and challenging methodologies and theories. The process of alterity is dependent on perceptions of *the self* and *the other*, determining ultimate access to the perspective of the person describing (*self*), and the perspective of the person described (*other*).³⁷ In this study, the focus lies particularly on the perceptions of the *collective self* and the *collective other*. The self, with its dominance, given the privilege of describing the other, is allowed to ascribe certain identity-forming

³¹ Thus, there is a certain deconstruction of the constructed reality in the court cases, as inspired by the theories of Jaques Derrida. See Derrida 1967 and Lawlor, Leonard: Jaques Derrida.

³² Bladini 2013, pp. 38–43

³³ See Crenshaw 1991. This is further dealt with in chapter 3.4 *Culture, Feminism and Rights*.

³⁴ Intersectionality as an approach that can be successful in addressing questions that are silenced by other discourses, see Carbin 2010, p. 167. Works of prominent scholars on intersectionality are e.g. Crenshaw 1991, Collins 2000, Davies 2005 and de los Reyes and Mulinari 2005.

³⁵ Quotation, McCall 2005, p. 1771.

³⁶ Even though these grounds are separate, it is important to highlight their partly interdependent character in their perception as *other*. Furthermore, there are also other grounds one could investigate: e.g. socio-economic positions and class. Unfortunately, the limits of this thesis make it difficult to fully incorporate this perspective into the study. However, I partly touch upon the subject when dealing with minority positions, in particular concerning the Kurdish population in Turkey. See chapter 4.3.2 *Gendered Violence and Majority/Minority Positions in Turkey*.

³⁷ Jensen 2011.

qualities and features to the other, forcing the one described to find agency with the described identity.³⁸ Hence, the identity of the other is *conceptualised*.³⁹

As referred to earlier, women and minority group members are seen as vulnerable, and are thus sensitive to processes of conceptualisation and essentialisation. The *hypothesis* of the study is that the *self* is perceived as male and the majority group member, while the *other* becomes female and the minority group member: this is reflected in the court cases investigated. Thus, the female minority group member is ultimately exposed to two different processes of alterity. This can be referred to as *intersectional othering*.⁴⁰ Theories of alterity are particularly useful in answering the research question, since they can explain both the *essentialised* and *normalised* constructions of gendered violence, e.g. in the court context, as strategies that are not necessarily opposite, but rather interconnected.⁴¹ This will be further demonstrated throughout the thesis.

Social constructionism and *discourse analysis* are independent theories and/or methodologies.⁴² However, closely related – if not interrelated – both investigate and stress the significance of structural *power relations*, mirrored and reinforced in language. Social constructionism mainly criticises knowledge as socially created: law offered no exception.⁴³ Thus, social constructionism opens up multiple ways to rethink categorisation within law and society.⁴⁴ In this study, social constructionism offers a useful strategy of critique of legislation, law in practice, legal knowledge, theories and argumentation: all viewed as social constructions. Thus, social constructionism, in combination with theories of intersectionality, feminism and alterity, can explain the existence of the constructions investigated in the judgements. Here, *contextualisation* is of ultimate importance. Therefore, the judgements investigated are placed within a societal context, in order to reveal the meaning and implications of the judgement text, reaching beyond the strictly

³⁸ Jensen 2011. About this formation of identity and the management mechanisms created on the micro level, see e.g. Howarth 2002 and Stets and Carter 2012.

³⁹ Gingrich 2004.

⁴⁰ The theoretical concept of othering is originally invented by post-colonial theories. Jensen 2011, p. 63. Inspiration for the critical analysis of linguistic constructions of alterity and difference is also taken from Derridean concepts of deconstruction. See Derrida 1967.

⁴¹ Well demonstrated in Volpp 2011.

⁴² Social constructionism might be classified as a theory. Discourse analysis is the methodology and method that is most closely related to the theory of social constructionism.

⁴³ Coined as a term in the 1960s, *social constructionism* is today considered to be one of the main schools of knowledge critique. See Berger and Luckmann 1967 and Gergen and Gergen 2003. However, there also exists a paradox between the notions of realism and the notions of social constructionism. Gergen 1998. About the application of social constructionism on law, see Ruuskanen 2006.

⁴⁴ Burr 1998, p. 13.

legal context.⁴⁵

Approaching the methodology of discourse analysis, there are multiple forms of the kind.⁴⁶ Commonly used in combination with social constructionism,⁴⁷ discourse analysis investigates discourses within language as *social interaction*. By analysing discourses, one can discover multiple arguments and their connections with values within language, and investigate how *power* and *constructions of power* are connected to these.⁴⁸ Generally, discourse analysis is a time-consuming, qualitative research method, requiring a close reading from the researcher.⁴⁹ I primarily use discourse analysis to analyse the connection between knowledge and power in the way they are particularly described in *Discipline and Punish*, *The Archaeology of Knowledge* and the first volume of *The History of Sexuality* by Michel Foucault.⁵⁰ In this study, the analysis particularly focuses on the language of the court.⁵¹ The discourse analysis performed is primarily focused on similarities, rather than differences.⁵² In answering the research question, discourse analysis can be considered particularly useful: finding the constructions within the judgements, revealing the focus of court and recognising whose perspective is regarded as valid in the construction of legal facts.⁵³

The *methodology* of the study can be summarised through an analysis of its *epistemological* and *ontological* frameworks.⁵⁴ The ontological cornerstone of this study is that law is a social concept that *manifests power relations*, while the epistemological premise is that power relations can be found through the *analysis* of the *letter* and the

⁴⁵ Volpp 2011, p. 98.

⁴⁶ Examples of famous forms of discourse analysis are Foucauldian discourse analysis, the discourse analysis developed by Ernesto Laclau and Chantal Mouffe, and critical discourse analysis. See Jørgensen and Phillips 2002 and Phillips and Hardy 2002.

⁴⁷ Jørgensen and Phillips 2002.

⁴⁸ The power of a discourse largely determines the value and the reception that various arguments will have. This notion of power is evident in many studies of social sciences; one recent example is the work of Stets and Carter on the sociology of morality. Stets and Carter 2012. See also the concept of Foucauldian biopower, which can be described as power politics on the macro level. Foucault 2007.

⁴⁹ Bergström and Boréus 2005.

⁵⁰ Foucault 2002, 1995 and 1990. The discourse analysis performed is somewhat genealogical, rather than archaeological. Discursive information is regarded as created through contradictory and multifaceted processes. See Bergström and Boréus 2005 and Keskinen 2009a, pp. 258–259.

⁵¹ About the application of Foucauldian theories to the concept of law, see Tuori 2002, in particular pp. 3–38. See also Niemi-Kiesiläinen *et al* (edit) 2006, in particular Niemi-Kiesiläinen *et al* 2006 and Ruuskanen 2006.

⁵² Thus, the Foucauldian influences are evident. Bergström and Boréus 2005, p. 313.

⁵³ See Niemi-Kiesiläinen *et al* (edit) 2006.

⁵⁴ The ontological and epistemological frameworks are pictured interdependently, and thus largely dependent on their contexts. However, it is possible to run into the methodological paradox between realism and social constructionism, touched upon in Burr 1998.

context of law.⁵⁵ Here, law is recognised as written, practical and political.⁵⁶ The aim is to analyse legal language and the discursive power that it creates and manifests.⁵⁷ Particular attention is paid to the reproduction of gender, as well as minority/majority relations, mirrored in the *essentialisation* of the *minority other* in the judgements.⁵⁸ The minority/majority positions analysed are (Muslim) immigrant minority/Finnish majority population in Finland, and Kurdish minority/Turkish majority population in Turkey.

As already mentioned, the cases chosen for analysis are cases where women have been killed by their partners, former partners and/or family members. My choice of cases is motivated by earlier academic writings and media reporting, an aim of broad geographic representation,⁵⁹ legal impact, as well as personal contacts with feminist lawyers⁶⁰. The cases are relatively recent, in order to represent the current legal situation of each country as comprehensively as possible.⁶¹ In total, I have analysed six cases from Finnish courts and six cases from Turkish courts. Three of the Finnish cases are Supreme Court decisions, and three are not.⁶² All six of the Turkish cases are from the Turkish Supreme Court of Appeals (the Supreme Court). Discourse analysis has been conducted on the judgements by *all court instances*, making the total number of analysed judgements 25: 13 Finnish and 12 Turkish. However, the Turkish judgements of the Courts of First Instance are only analysed in the short form in which they are described in the judgement by the Supreme Court. Thus, the Turkish judgements can be considered to count six in total, making the ultimate number of judgements analysed 19. My command of Turkish language permits me

⁵⁵ Thus, theory and methodology have to be seen as intertwined. This form of linguistic power creation is typical for Foucauldian readings, other forms of discourse analysis as well as feminist analysis of power. With *power*, I do not refer to something that is simply observed, but to a “projection of a category [...] that derives from our own awareness”. Quotation, Beattie 1964, pp. 140–141. See Jørgensen and Phillips 2002, Gutting, Gary: Michel Foucault and Allen, Amy: Feminist Perspectives on Power.

⁵⁶ Thus, the sociological aspect of law is particularly highlighted. See Baytok 2012, p. 7.

⁵⁷ Also seen in the concept of Foucauldian biopower, see Foucault 2007.

⁵⁸ Similar to what is done in the study of Swiss police reports by Gloor and Meier. See Gloor and Meier 2011.

⁵⁹ This primarily concerns Turkey, where the cases have been chosen from both the eastern, western, southern and middle parts of the country. This concern has been important in bridging the gap between “the East” and “the West”, which often occurs in Turkish reporting and writings on many issues, gendered violence being one of them.

⁶⁰ Contacts with the feminist lawyers have particularly been helpful in the process: providing me with information about cases that were particularly followed by feminist activists. I also took part in one of these trials, on 21 August 2013, at Bakıröy Adalet Sarayı, where a group of feminist activists and lawyers were following a case where a woman had been killed by her husband. However, this case is not analysed in this thesis, since its judgement will not be released until 2014.

⁶¹ Thus, no major changes have been made in legislation.

⁶² The cases that are not Supreme Court judgements are dealt with in this thesis because they have gained attention in the Finnish media as being potential so-called *honour killings*, or simply because the perpetrators and victims were immigrants. Two of the cases are also analysed by Arto Karalahti in his LL.M. thesis on the subject of so-called *honour killings*. See Karalahti 2008, pp. 49–55.

to understand the contents of the judgements. However, in order to fully understand the meaning and implications of the Turkish judgements and to familiarise myself with Turkish legal concepts and legal culture, I have received help from the lawyers at the Foundation for Legal and Society Studies, TOHAV, where I did an internship during the summer of 2013. In particular, I have received help from lawyer Sevgi Epçeli.

In order to obtain deeper and more nuanced information about the construction of gendered violence and discourses of culture, I conducted 13 semi-structured interviews with academics, one former UN special rapporteur, representatives of NGOs, social workers and other people working professionally against violence. The interviews ranged between 30 minutes to two hours in length, and were mainly performed in the Nordic countries and Istanbul, Turkey. The findings of the discourse analysis performed are viewed against the theoretical, historical, political and societal frameworks, both national and international, put forward in the first four chapters of the thesis. This is done in order to stress the interdisciplinary nature of the study: to highlight the problematic nature of multiple discrimination, and to place legal constructions in a societal context. The amount of material might seem excessive, but is necessary in order to *contextualise* the constructions found in the judgements, which ultimately increases the understanding of the discourse analysis performed in the study.⁶³

The study continues the discourse analysis research on gendered violence in the Finnish legal context, characterised primarily by the works of legal researchers Johanna Niemi, Minna Ruuskanen and Helena Jokila.⁶⁴ Being an interdisciplinary study, this thesis is largely influenced by the works of certain sociologists and social theorists, such as Yakın Ertürk, Suvi Keskinen, Dicle Koğacioğlu and Nükhet Sirman,⁶⁵ but also by other research within the field: particularly concerning intersectionality.⁶⁶ The discourse analysis carried out in this study compares the Finnish legal context with the Turkish: offering another perspective to Finnish law, primarily concerning the fields of gender and law, sociology of law and criminal law. Hence, this study aims to develop legal knowledge and particularly

⁶³ This is also needed in order to understand the context and intersections of the issue. Koğacioğlu 2011, pp. 173–174.

⁶⁴ See Niemi-Kiesiläinen 2004, Ruuskanen 2005 and Jokila 2010.

⁶⁵ A/HRC/11/6/Add.5, A/HRC/4/34, A/HRC/4/34/Add.2, Ertürk and Purkayastha 2012, Ertürk 2012 and 2009. Keskinen 2011a, 2011b, 2009a, 2009b and 2005. Koğacioğlu 2011 and 2004. Sirman 2011, 2004 and 2003.

⁶⁶ See Abu-Lughod 2011, Crenshaw 1991, Collins 2000, Davies 2005, de los Reyes and Mulinari 2005, Shachar 2001, and Volpp 2011, 2001 and 2000.

knowledge *about law*⁶⁷ in the national and comparative legal field. There being no earlier comparative studies of Finnish and Turkish judgements on gendered violence, this study can be considered to offer new insights into the subject: in particular concerning legal constructions of majority/minority positions in society. The *aspired effects* of the study are to discuss and contribute to the results of other research in the area, as well as to provide material and ideas for further research on the subject.

It is of ultimate importance to highlight that this study is by no means trying to undermine the violence faced by minority women. Rather, it tries to understand the need – or lack of such – for a separate debate and intervention on *certain forms of gendered violence*, with reference to minorities and vulnerable groups.⁶⁸ The study stresses the perspective of the female victim, rather than the perspective of the perpetrator,⁶⁹ aiming to avoid the normalisation of gendered violence. Discourse analysis is utilised in this study in order to render visible the strategies of *culturalising* gendered violence: e.g. to get beyond *orientalised* descriptions and understandings of *honour*.⁷⁰ Thus, this study aims to highlight the universality of gendered violence, while simultaneously recognising its multiple forms.⁷¹

⁶⁷ These different perspectives on law being typical for socio-legal studies and critical legal studies. Hirvonen 2011, pp. 34, 50–55. See also Tuori 2000, pp. 260–282.

⁶⁸ The need and importance to *recognise* all forms of gendered violence was discussed in my interview with Jenny Westerstrand. Jenny Westerstrand, 17 October 2013.

⁶⁹ In this study, the word *perspective* is sometimes used in order to describe a certain narrative of a person involved in the events.

⁷⁰ A/HRC/4/34, pp. 18–19, 21–24.

⁷¹ Therefore, it largely follows a research tradition that has been put forward by certain feminists, e.g. Åsa Eldén, Eva Lundgren and Jenny Westerstrand. See Eldén and Westerstrand 2003, SOU 2004:121 and Lundgren *et al* 2001.

*Those with power appear to have no culture;
those without power are culturally endowed.*

Lawyer Leti Volpp⁷²

⁷² Volpp 2001, p. 1192.

3 Gendered Violence: Passion or honour?

In this chapter, I account for gendered violence and the dichotomous divisions of gendered violence on the grounds of perceived *collective v. individual nature*. This is done with reference to international, Finnish and Turkish legal and policy frameworks. Furthermore, the discussion on the presumed paradox between multiculturalism and (liberal) feminism is touched upon.⁷³ This chapter aims to provide for a further understanding of the context of gendered violence.

Definitions and understandings of violence traditionally focus on physical forms of violence,⁷⁴ forming the main perception of violence in the legislative frameworks of many countries.⁷⁵ However, violence is a concept that goes beyond physical assault: there are also e.g. mental, social, sexual and economic forms of violence.⁷⁶ It is important to highlight that violence can be defined both from the point of view of the perpetrator, as well as that of the person who is the object of violence, the *victim* or *survivor*.⁷⁷

In this thesis, I have chosen to deal with *male violence*⁷⁸ *against women*, using the term *gendered violence*.⁷⁹ The term can be considered appropriate, since it highlights both the gendered nature of perpetration and victimisation in different forms of violence.⁸⁰ Gendered violence departs from the term *violence against women*⁸¹, and is a worldwide phenomenon, springing from and contributing to gender inequality.⁸² With reference to

⁷³ Initiated primarily by Susan Moller Okin. See Okin 1999.

⁷⁴ An example here worth mentioning is the definition by the Violence Prevention Alliance. Violence Prevention Alliance: Definition and typology of violence.

⁷⁵ This is e.g. the case in Finland, where the focus in criminal provision of assault (*fi: pahoinpitely*) in the Finnish Criminal Code (39/1889), chapter 21, section 5, mainly lies on physical violence: *A person who employs physical violence on another or, without such violence, injures the health of another, causes pain to another or renders another unconscious or into a comparable condition, shall be sentenced for assault to a fine or to imprisonment for at most two years*. Finnish Ministry of Justice: Unofficial translation of the Criminal Code of Finland. However, the most recent amendment of section five in 1994 was thought to include forms of violence other than physical violence. See HE 94/1993, pp. 95–96.

⁷⁶ Karinca 2011, pp. 22–28. This perspective on violence was also discussed with Tanja Völker and Martina Gaidzik, 29 January 2013.

⁷⁷ The approach that departs from the point of view of the victimised woman can be considered as feminist and rights-based. This approach has been particularly difficult to form in some cases, e.g. the battered women's movement. See Merry 2003b.

⁷⁸ With the term *male violence*, I do not refer to the violence as biological or natural for the male sex or gender. However, it is used in order to highlight the gendered exercise of violence as power, enforcing male supremacy and female inferiority. Therefore, my utilisation of the term *male violence* differs from some definitions. See Masson and Roux 2011, Alder 1997, Edwards A. 1987 and Jokinen 2000, p. 27.

⁷⁹ Used in e.g. Condon *et al* 2011, Keskinen 2011a, Koğacıoğlu 2011, Sirman 2011 and Volpp 2011.

⁸⁰ Edwards A. 1987.

⁸¹ World Health Organization: Violence against women.

⁸² Here, *men* and *women* are used as generalised perceptions and conceptions, mainly based on the same perception of sex that occurs in international legal documents, such as the CEDAW. It is used in this way,

certain feminist theories,⁸³ male violence perpetrated against women forms an encompassing pattern of violence: perpetrated in *public* as well as in *private*.⁸⁴ Violence against women is sometimes referred to as *gender-based violence*, due to the fact that the victimisation happens on the grounds of gender or sex.⁸⁵ However, gendered violence and gender-based violence are not identical: gendered violence stresses the act of violence as *reproducing* and *maintaining* structural gender inequality more than the term gender-based violence. Gendered violence is not limited to male perpetrators and female victims: it involves a broader, multifaceted understanding of violence and societal creation of gender and sex, also involving LGBTIQA groups.⁸⁶ Thus, violence is only one element, or manifestation, of this structural gender inequality.⁸⁷

I have limited the focus of this study to gendered violence, where female victims have been killed. Hence, the focus is on physical violence, with a traditional understanding of the concept of sex. With this limitation, I do not intend to contribute to the focus only on extreme forms of violence, as is often done for instance in the media.⁸⁸ In doing so, the patterns of gendered violence and the everyday realities faced by victims of gendered violence⁸⁹ are easily hidden and forgotten.⁹⁰ Rather, the narrowing of the subject is done in order to limit the scope of research, and to be able to offer grounds for comparison between different legal contexts. A profound analysis of all forms of gendered violence in the countries of comparison is, mildly put, an extensive area of research: thus, not appropriate

since the framework of gendered violence in international law more or less builds upon this perception. However, it is important to highlight that the perceptions of sex and gender are highly complex phenomena, not merely divided into two sexes and/or genders as female and male – neither does the perception of sex or gender look the same in all parts of the world. Because of the complexity of the phenomena of sex and gender, and the limitations of this thesis, I have chosen not to challenge and question these terms and perceptions more than this.

⁸³ See Lundgren *et al* 2001, Lundgren 2013, 1993 and 1992, Kelly 1988 and 1987 and SOU 2004:121.

⁸⁴ This study being feminist, I cannot make a distinction between *private* and *public* without (at least implicitly) questioning it. This division is problematic in order to render structural violence visible. Åsa Eldén, 24 June 2013 and Heidi Kinnunen, 24 May 2013. About the danger of dividing gendered violence into domestic violence and violence in the public sphere, see Lundgren *et al* 2001 and Eldén 2003, p. 87. See Ertürk and Purkayastha 2012, p. 145 and Dallmeyer (edit) 1993. It is important to highlight that the violence can be perpetrated by anyone: e.g. strangers, acquaintances, work colleagues, supervisors, friends, family members or partners. See chapter 4 *Legal and Policy Approaches: A universal issue?*

⁸⁵ Gender-based violence is used largely in national and international law instead of violence against women. This is mainly because of the perception of the term *women* as an unstable, fractured and contested category of identity. However, it remains questionable whether the term *gender* is more coherent than the term *women*. See Helen Gremillion, 23 May 2013.

⁸⁶ Involving inherent male supremacy and female inferiority. Saying this, it is also possible that e.g. a person, biologically recognised as a man, or as an intersex person, are victims of gendered violence.

⁸⁷ Sociologists for Women in Society: Gendered Violence Fact Sheet.

⁸⁸ E.g. focusing particularly on gruesome cases of violence, such as murders in which the body is dismembered. This was discussed in my interview with Åsa Eldén. Åsa Eldén, 24 June 2013.

⁸⁹ *Note: mainly women.*

⁹⁰ This is also described in Eldén and Westerstrand 2003.

for an LL.M. thesis.⁹¹

Often critiqued as offering an implicit justification or excuse to violence,⁹² so-called *passion killings* and so-called *honour killings* are described as examples of *individual v. collective gendered violence* in this study. I have chosen to use the terms as a point of departure, in order to pin them down and thoroughly investigate their structures. In the following chapters, the terms are defined in accordance with legal, socio-legal, sociologist, historical and anthropologist sources.⁹³ It should be pointed out that the implicit risk in defining concepts is the danger of closing the scope of the definition to phenomena, which lie beyond the perception of the person making the definition. This exclusion might result in unequal treatment and discrimination of cases that fall outside the range of the definition.⁹⁴ However, within law there is a *normative need* to define certain phenomena, in order to create a common framework for interpretation, or a point of departure for analysis.⁹⁵

3.1 The Collective Violence: So-called killings of honour or custom

In this section, I describe two similar examples of what is often perceived as *collective gendered violence* in the international, Finnish and Turkish frameworks of law, sociology and anthropology. In the international and Finnish contexts, this example is described as so-called *honour killings*. In Turkey, the example referred to are so-called *custom killings*.

In the international framework, there have been many attempts to define so-called *honour killings*. Despite this, there is no common, uncontested definition.⁹⁶ One of the most frequently quoted definitions is the one offered by human rights advocate Purna Sen. Sen presents six characteristic features for murders in the name of honour: that the woman's

⁹¹ This type of research has, to some extent, already been done. A good example of anthropological analysis of gendered violence is e.g. the works of Sally Engle Merry. See Merry 2008 and 2006.

⁹² About excuses for gendered violence, see Renteln 2004, pp. 24–36. This was highlighted by the representatives of the Turkish feminist NGO Mor Çatı. Tanja Völker and Martina Gaidzik, 29 January 2013. It has been stressed by the former Finnish President Tarja Halonen. Ess.fi: Halonen: “Intohimorikos” ja “kunniaväkivalta” olisi unohtettava.

⁹³ Naturally, the different disciplines offer different explanations and frameworks for explanations of the terms. The definitions in the following are based on the commonalities of these definitions.

⁹⁴ This is one of the main points that can be derived from the extensive work of Judith Butler on the concepts of sex and gender. See Butler 2004, 1993 and 1990.

⁹⁵ The normative needs in law can be described from the shortcomings of legal realism. However, there is a need for both normative as well as realist argumentation in law. This can be well observed in international law, which is captured in its dependency on international politics. Koskeniemi 2005, pp. 562–617.

⁹⁶ In her analysis, Unni Wikan writes that the term is widely contested also in the environments where so-called “honour killings are part of old traditions”. See Wikan 2005, p. 8.

behaviour is the main focus of attention; that women can have a role in the supervision over other women, possibly even participate in the killing; that the decision to kill is made collectively; that there is a possibility to regain honour through threat, force or violence; and that the State legitimises the crime by accepting honour as a motive and purpose of the perpetrated violence.⁹⁷

So-called *honour killings* are often described as an extreme part of larger, systematic, gendered violence, often referred to as so-called *honour (related) violence*. So-called *honour killings* are often, generally in the coverage by (western) media, particularly connected to Middle Eastern and Asian cultures: be it immigrants or remote societies.⁹⁸ However, there are claims that so-called *honour killings* exist everywhere in the world.⁹⁹ Furthermore, so-called *honour killings* have a contested connection to Islam.¹⁰⁰ Due to a particular sensitivity, some actors avoid the term: e.g. the UN, mainly addressing so-called *honour killings* within the framework of so-called *harmful traditional practices*, later only *harmful practices*. The elimination of the word *traditional* can be considered as a positive development of the term, to a greater extent avoiding discourses of alterity.¹⁰¹

Influenced in particular by the Swedish discussion, there has been relatively little attention paid in the Finnish media and public debate to so-called *honour killings* and so-called *honour violence* in comparison with the other Nordic countries.¹⁰² There are some authority reports and handbooks on the subject of so-called *honour killings*¹⁰³ as well as work done by NGOs.¹⁰⁴ Two of the most well-known NGO projects surrounding the theme

⁹⁷ Sen 2005, pp. 61–62.

⁹⁸ See Keskinen 2009a, p. 262 and Koğacıoğlu 2011, p. 189. One example of the discourse is the study by anthropologist Clementine van Eck on so-called *honour killings* perpetrated by Turkish immigrants in the Netherlands. The study does not deal with gendered violence on a broader scale, nor the violence perpetrated by majority Dutch men against majority Dutch or immigrant women. See van Eck 2003.

⁹⁹ Well demonstrated by the different authors in Welchman and Hossain (edit) 2005.

¹⁰⁰ See Wikan 2005, p. 8 and Welchman and Hossain (edit) 2005. However, there is often a perceived connection in the West between honour killings and Islam. See Sen 2005, pp. 46–48. This perceived connection can e.g. be seen in the writings of Kirsti Härkönen in her observations of (in particular sexual) gendered violence in Turkey and references to the Qu’ran. Härkönen 2004. The perception is often based on lack of knowledge of Islam and the history of Islam. See Awla 2005, p. 162.

¹⁰¹ Springing from the recognition of these in CEDAW Art. 5 and DEVAW Art. 2. See OHCHR: Fact Sheet no. 23, E/CN.4/RES/1994/45, Plan of action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children, and Ertürk and Purkayastha 2012, p. 149. This was discussed during the interviews with Tassopoulos and Eldén. Kostas Tassopoulos, 5 June 2013 and Åsa Eldén, 24 June 2013.

¹⁰² Keskinen 2009b. About the problematic alterity discourse in the Nordic countries, see Sundström 2009, pp. 71–72 and Bredal 2005.

¹⁰³ E.g. STM 2005:15, SM 29/2009 and SM 14/2011. See Hong 2013.

¹⁰⁴ Examples of prominent NGOs in the field are the Finnish League of Human Rights, Monika-Naiset and Miehen linja. See Allinen-Calderon *et al* 2011, Äärelä and Gerbert 2012, Nyqvist and Hyvärinen 2012 and Keisala 2006.

are the *Kitke!* project¹⁰⁵ and the *Amoral* project.¹⁰⁶ In many of the definitions used by the authorities and NGOs, so-called *honour violence* and so-called *honour killings* are described as *new phenomena* in Finland, related to foreign cultures and traditions, a *collective* society, immigration and immigrants. Thus, many of the approaches are *particularist* and *culturalist*.¹⁰⁷ However, there are certain tendencies, particularly in more recent work, to relate the problem of so-called *honour killings* to more universal explanation models on gendered violence.¹⁰⁸

There is no explicit legal definition of the term in Finland, even though attempts to create definitions have been made in authority reports on the subject.¹⁰⁹ This might be due to the fact that *honour* in the Finnish context, addressed as such, is not – at least formally – given legal relevance, regarding acts of violence.¹¹⁰ Some efforts to create a legal definition have been made e.g. in the article *Honour Violence from a Legal Perspective* by Pia Holm¹¹¹ and in LL.M. theses *Patriarchal Honour Violence* by Sara Räisä¹¹² and *Honour violence – Honour Killing as a Form of Honour Violence* by Arto Karalahti¹¹³. All of the definitions proposed focus on the *collectivity* of the violence. However, the definitions can be seen as somewhat problematic: since they place the problem, and the context of the definition, in certain (minority) cultural contexts. Not proposing a definition *per se*, sociologist Suvi Keskinen has used a different approach to the subject: recognising so-called *honour related violence* partly as violence in intimate relationships, partly as parental violence against children, partly as exercised by adult children against their parents, and partly as violence by several family members towards one family member.¹¹⁴ Thus, her definition does not focus on differences and culture, but departs from the *violence* perpetrated.

In Turkey, one form of collective violence is referred to as so-called *custom violence* or so-called *custom killings*. This term is used in media reporting,¹¹⁵ legal documents, NGO

¹⁰⁵ Initiated by the Finnish League of Human Rights. Ihmisoikeusliitto 2011.

¹⁰⁶ Initiated by the Mannerheim League for Child Welfare. See the final report of the project, Tauro and van Dijken (edit) 2009.

¹⁰⁷ About culturalist and particularist explanation models, see Ertürk 2009 and Jenny Westerstrand's article DN Kultur: Här är sanningen i debatten om hedersvåld.

¹⁰⁸ Hong 2013. See also Keskinen 2011a.

¹⁰⁹ Hong 2013.

¹¹⁰ At least, it is not mentioned in the justifying (*se: rättfärdigande*) or excusing (*se: ursäktande*) grounds for a crime within the Finnish criminal legal doctrine. Frände 2004, pp. 154–218.

¹¹¹ *Fi: Kunniaväkivalta oikeudellisesta näkökulmasta*. Holm 2009.

¹¹² *Fi: Patriarkaalin kunniaväkivalta*. Räisä 2009.

¹¹³ *Fi: Kunniaväkivalta – Kunniaturha kunniaväkivallan muotona*. Karalahti 2008.

¹¹⁴ Keskinen 2009b, pp. 24–25.

¹¹⁵ *Anlayış: Mardin olayı: Töre değil katliam*.

frameworks, academic research and public discussions.¹¹⁶ One of the most conspicuous features in the Turkish legal context is that it is officially addressed as a specific type of crime,¹¹⁷ and in order to be legally classified as a so-called *custom killing*, the point of departure is the need for a *collective decision* made before the killing.¹¹⁸ This collective decision is traditionally described as the outcome of a family council meeting.¹¹⁹ However, this view has been somewhat abandoned in recent years, the collective decision not deemed crucial for the description of the crime.¹²⁰

There have been several attempts to define so-called *custom killings* legally and in other academic fields. One of the most prominent and well-known investigations of so-called *custom killings* has been done by former Supreme Court of Appeals judge Salih Zeki İskender. According to İskender, the particular features of the so-called *custom killings* can be multifaceted, but are distinguished by the collective perception of honour.¹²¹ Political scientist Ceren Belge has addressed so-called *custom killings* as the perceived right for families to punish their own for the breach of societal norms: an unofficial legal system existing particularly in certain parts of Turkey.¹²² This being said, so-called *custom killings* are often associated with *Kurdish people* and *Kurdish culture* in Turkey.¹²³ The Supreme Court of Appeals often points out the areas of Turkey with a large Kurdish population as an area where these crimes are perpetrated.¹²⁴ Some actors have criticised this policy for its essentialising effects.¹²⁵

When referring to a phenomenon of violence with perceived collective character (both so-called *honour killings* and so-called *custom killings*), the term so-called *collective gendered violence* is used in the following text. Sometimes the term so-called *honour killings* is

¹¹⁶ Radikal: Kadınlar, töreler ve ötekiler.

¹¹⁷ To be further addressed in chapter 4.3.1 *Turkish Legislation*.

¹¹⁸ As defined by legal practice. Ertürk 2009, p. 62 and Yıldız and Muller 2006, pp. 33–34.

¹¹⁹ This is highlighted in most Turkish legal and sociological literature on the issue. See Özcan 2013, p. 242.

¹²⁰ This can be seen e.g. in The Supreme Court of Appeals of Turkey, Decision no. 2011/120, File no. 2011/1-138, Judgement given 14 June 2011. See also Habertürk: Töre mi, namus mu?

¹²¹ İskender 2011.

¹²² Hence, Kurdish people are particularly affected. Belge 2008, p. 44 and 55. This form of *justified violence* is also touched upon in Shalhoub-Kevorkian 2005, pp. 160–161.

¹²³ Ertürk 2009, p. 63.

¹²⁴ Bayr 2013, pp. 138–139. See also The Supreme Court of Appeals of Turkey, Decision no. 2010/111, File no. 2010/1-56, Judgement given 11 May 2010.

¹²⁵ Mostly by Kurdish activists and researchers with feminist and intersectional approaches. See e.g. Koğacıoğlu 2011 and 2004 and Sirman 2011. This was also discussed in my interview with Ph.D. candidate Ferya Taş, who pointed out that in particular the media discourse in Turkey uses strategies of alterity towards the Kurdish minority. Ferya Taş, 16 August 2013. A few examples of the Turkish media discourse are Diyardinnet.com: Ağrı'da Tüylar Ürperten Töre Cinayeti, Milliyet: Töre kurbanı Hatice toprağa verildi and Sıcak Haberler: Mardin'de Töre Cinayeti.

used, if reference is made particularly to Finnish or western contexts.

3.2 The Individual Violence: So-called killings of passion or honour

In this section, I analyse what are often referred to as so-called *passion killings* in the international and Finnish contexts, and as so-called *honour killings* and/or *passion killings* in Turkey.¹²⁶ The term refers, in the large international context, to a strategy of legal defence – often legally referred to as *provocation* – making the apologetic claim that a crime was perpetrated due to *sudden anger or heartbreak*. The term is originally used in cases when a person (often male) finds his/her partner having sexual intercourse with another, and immediately kills one – or both of them – in a state of anger. In courts, this is used as a legal strategy for the defendant to get a reduced sentence or a cause for acquittal.¹²⁷ The strategy typically relates to the defendant's claims of *sexual relations* and/or *love* and *affection*. The perpetrators of so-called *passion killings* are typically described as the (often male) partners or former partners of the victims, but there have been cases where similar logics were used as legal defence strategies by other members of the (often female) victims' families, such as brothers or fathers.¹²⁸ So-called *passion killings* are not considered to be specific for non-western societies¹²⁹ and receive legal recognition in some modern legal systems: either explicitly through legislation, and/or implicitly through court practice.¹³⁰

In the Finnish context, the defence strategy of passion has in history been officially approved in the legal system. This was done according to Swedish law – since Sweden has historically comprised a great part of what is today considered to be Finland – as an exclusive right for a *married man*. According to *Magnus Erikssons stadslag*, 14th century Swedish criminal law gave the right to a husband to kill his wife and her lover, in the event that the husband catches the couple red-handed.¹³¹ This can imply a type of *honour*

¹²⁶ So-called *passion killings* do not occur as an often used term within legal, sociological, anthropological or historical texts. The more common terms used for the phenomenon, are so-called *crime passionnel* or *crime of passion*. However, this thesis being limited to (mainly) physical violence with death as the outcome, I have chosen to use the term so-called *passion killings*. The choice of the term also draws parallels to so-called *honour killings*.

¹²⁷ The Free Dictionary: Crime of Passion and Nourse 1997, pp. 1331–1332.

¹²⁸ See Besse 1989, p. 653.

¹²⁹ Thus, they are different from so-called *honour killings* on this point.

¹³⁰ On the similarities and difference between the meaning of the concepts of so-called *honour* and *passion*, see Abu-Odeh 1997.

¹³¹ There is no reason mentioned in the contemporary legal texts as to why the husband was given this right.

*codex*¹³², expecting the husband to kill the couple (or one of them) in order to defend his honour. It can also imply legal acceptance for the revenge of the husband.¹³³ Thus, there are certain similarities with the definition of so-called *honour killings*, provided by Sen.¹³⁴

The defence of passion no longer receives (at least explicit) support in Swedish, nor Finnish, criminal laws.¹³⁵ However, it is not entirely clear whether some situations that fall within the scope of so-called *passion killings* can be interpreted as extenuating circumstances in Finnish courts.¹³⁶ What remains clear, on the other hand, is that *jealousy*, *a will to control female partners* and *the perceived shame of losing the female partner* are addressed as explanations of gendered violence: in research as well as by professionals working within the subject.¹³⁷ Even though violence is seldom addressed explicitly as so-called *passion killings* in the Finnish context, a certain (*individual*) *honour* can be distinguished as a pattern in these *violence myths*.¹³⁸

In Turkey, there are references to two terms when addressing perceived *individual honour*: so-called *passion killings* and so-called *honour killings*.¹³⁹ A so-called *passion killing* and a so-called *honour killing* are described as killings when the individual honour of a man is contested or perceived as lost.¹⁴⁰ Typical cases recognised as so-called *passion killings* or so-called *honour killings* in the Turkish system are cases where the victimised woman is thought to have a sexual relationship with a man other than the male perpetrator, or when

Cronberg 2005, p. 195.

¹³² This term is particularly used by anthropologist Unni Wikan, when she describes the “cultural background” of so-called *honour killings*. Wikan 2005.

¹³³ Cronberg 2005, p. 195.

¹³⁴ See chapter 3.1 *The Collective Violence: So-called killings of honour or custom*.

¹³⁵ In modern Finnish criminal law, provocation is not addressed so much in the criminal legal doctrine: the provocation addressed is mostly *violent provocation* in combination with self-defence. See Matikkala 2000, pp. 59–63. However, according to older sources, the act of provocation does not necessarily have to constitute physical violence. Honkasalo 1970, pp. 18–19. On the evaluation of provocation in modern Swedish criminal law, see Lernestedt 2010, pp. 264–269.

¹³⁶ According to a Finnish precedent of 1997, this legal strategy is not (at least explicitly) given legal protection in Finnish criminal law. See KKO:1997:153. This issue is further addressed in chapter 4.2.1 *Finnish Legislation*.

¹³⁷ Hurttä 2002, p. 60, Nikunen 2005 and Matti Kupila, 7 February 2013. *Jealousy* and *problems in the relationship* are mentioned as main reasons for gendered violence in the report by Martti Lehti. See Lehti 2009, p. 19. The same explanation models have also been found among professionals working with anti-violence work. Keskinen 2005, pp. 270–275.

¹³⁸ On violence myths, see Eldén (edit) 2007, p. 12.

¹³⁹ The division has been challenged by certain feminists, addressing both so-called *collective gendered violence* and so-called *individual gendered violence* as perpetrated in the name of honour. Pervizat 2011, pp. 142–143. Some claim that the Turkish perception of *honour* (*tr: namus*) is different from that of passion, arguing that it is more encompassing than simply male control over women. See Se'ver and Yurdakul 2001, p. 973.

¹⁴⁰ Karınca 2011, p. 40. Özcan 2013, p. 244.

she wants to end the relationship with the male perpetrator.¹⁴¹ The violence perpetrated is acted out of the *shame* inflicted upon the man, often perceived as a result of the behaviour of the woman with whom he is having (or has had) a relationship.¹⁴² These cases can sometimes receive a milder treatment in court, being considered as *unjust provocation* of the perpetrator.¹⁴³ Thus, so-called *honour killings* do not have precisely the same meaning in Turkey as they do in the international (largely western determined)¹⁴⁴ and Finnish contexts.

Thus, *honour* is an ambiguous word in the Turkish (and perhaps also Finnish and international) legal context(s). This is due to the fact that what is perceived by the judge as a killing motivated by *individual honour* can receive certain legal protection in practice – while what is perceived as a killing motivated by *collective honour* is considered as aggravating.¹⁴⁵ Insightfully demonstrated in the writings of Nükhet Sirman, this ambiguity is explained through the connections to foundational Republican values in the Turkish context, which regard *romantic love* (perceived as individual) as superior to *kinship* (perceived as collective).¹⁴⁶

So-called *passion killings* are internationally questioned today, much owing to feminist movements.¹⁴⁷ However, the term still exists as a strategy for legal defence.¹⁴⁸ Nevertheless, it is notable that the so-called *honour killings* are still widely used as a term (as opposed to the so-called *passion killings*), even though they can be subjected to the same critique: i.e. constituting strategies that build on the *narrative* of the perpetrator.¹⁴⁹ When referring to a phenomenon of violence with perceived individual character, the term so-called *individual gendered violence* is used in the following. Sometimes only the term so-called *passion killings* is used, if reference is made to the Finnish or western context.

¹⁴¹ This is described as a *western perception of honour* by Aylin Akpınar. See Akpınar 2003, p. 427.

¹⁴² This is described by lawyer Onur Özcan as acts perpetrated in anger or mental anguish. Özcan 2013, p. 254.

¹⁴³ İstanbul Barosu Kadın Hakları Merkezi 2010, pp. 43–44. The article on *unjust provocation* in the Turkish legal system is further dealt with in chapter 4.3.1 *Turkish Legislation*.

¹⁴⁴ With *international context*, I focus primarily on the framework of the UN.

¹⁴⁵ Ertürk 2009, p. 62. However, the distinction between so-called *individual* and *collective* honour is often not clear in the Turkish legal context. Thus, labelling a killing as one of custom is generally something that judges refrain from. The phenomenon is well demonstrated in Habertürk: Töre mi, namus mu?

¹⁴⁶ Sirman 2011 and 2004. See 4.3.2 *Gendered Violence and Majority/Minority Positions in Turkey*.

¹⁴⁷ This is mainly because the term (primarily in legal contexts) during the 20th century has been the object of wide-ranging feminist critique as not only excusing, but permitting gendered violence to continue. See e.g. A/HRC/11/6/Add.5.

¹⁴⁸ E/CN.4/2002/83, pp. 14–15, see also Carline 2011.

¹⁴⁹ This was discussed during my interview with Nükhet Sirman. Nükhet Sirman, 11 July 2013. This is also partly analysed by Terman 2010.

3.3 Categorisation of Gendered Violence: Helpful or harmful?

The western discussion about so-called *honour violence* and so-called *honour killings* has largely been dominated by the question of whether certain forms of violence should be separated from others. The aim of this section is not to provide a definite answer to the question of whether or not so-called *honour violence* should be separated from other forms of gendered violence. The aim is rather to shortly present some of the main claims for and against a division of gendered violence with a perceived *individual* or *collective* nature. This is done in order to provide a deeper understanding of the phenomena of gendered violence, and their social constructions and discursive differences.

Both so-called *collective gendered violence* and so-called *individual gendered violence* are known as forms of gendered violence, victimising women to a larger extent than men. They are also perpetrated by men more often than women. If perceived as a legally accepted cause for a mitigated sentence, the concept of so-called *individual gendered violence* is in many ways related to the *psychological elements* of the perpetrator, while the so-called *collective gendered violence* focuses on the *culture* of the perpetrator. The terms greatly build upon the perceptions and narrative of the perpetrator of the violence.¹⁵⁰

The perceived collective forms of gendered violence are often described as perpetrated by the *family* or the *extended family* (e.g. fathers, brothers and mothers) and as requiring a certain audience, while the perceived individual forms of gendered violence are described as perpetrated by the *partner* or *former partner*.¹⁵¹ However, both occur when *male control*¹⁵² is challenged: be it perceived as collective or individual.¹⁵³ The difference is often addressed as one of culture: sometimes, the *other* culture (the perceived collective culture) is even addressed as *a culture of honour*.¹⁵⁴ This term is important to regard

¹⁵⁰ Ertürk 2009, Nükhet Sirman, 11 July 2013 and Terman 2010.

¹⁵¹ Chesler 2009 and Wikan 2005.

¹⁵² The perception of *male control* is here not bound to the gender or sex of the perpetrator; it is rather a concept of structural male power.

¹⁵³ Baker *et al* 1999, p. 175. However, it is important to highlight the fact that so-called *honour killings* or so-called *passion killings* are not the only possible reaction to threatening male control. Threatening of male control can also be regarded as important means of agency for women in different societies. Ginat 1982, pp. 177–182.

¹⁵⁴ In particular, Swedish media and also, to some extent, academic writings and the Swedish authorities, use the word *hederskultur*. See SOU 2010:84, Schlytter *et al* 2009, pp. 24–27, Göteborgs stad: Hederskultur, Feministiskt Perspektiv: Åkesson förespråkar “hederskulturer”, and Johansson (edit) 2005. However, the utilisation of the term, and most importantly, its culturalising line of argumentation, has also reached Finnish authority work. Examples of this can be seen in SM 14/2011 and SM 1/2008. The utilisation of the term has been largely criticised, e.g. by several of my interviewees. See Kostas Tassopoulos, 5 June 2013, Natalie Gerbert, 7 June 2013, Åsa Eldén, 24 June 2013 and Jenny Westerstrand, 17 October 2013.

towards the development of cultural racism,¹⁵⁵ particularly in the West.¹⁵⁶ Viewing minority women as more oppressed than majority women is a common strategy for rendering the dominant anti-feminist and culturalist discourses stronger.¹⁵⁷ Psychologist Phyllis Chesler and anthropologist Unni Wikan particularly highlight cultural difference in their work on so-called *honour violence*.¹⁵⁸ However, this stress on differences can also be found in other works on the subject, e.g. reports by Finnish and Swedish NGOs.¹⁵⁹ This cultural differentiation, however, often borders on a dichotomous construction of perceptions of western v. non-western, and the line of argumentation commonly orientalises Islam and/or cultures perceived as non-western.¹⁶⁰

It is important to raise the question whether this perceived cultural collectivism is important for the *true nature* of gendered violence – let alone the assessment of such. Is there a significant difference in the involvement of the (extended) family in the violence, compared to if the perpetrator acts alone?¹⁶¹ Is there a difference if the honour is defined by a surrounding audience, or by the perpetrator alone? Is the significance of the difference estimated from the perspective of the victim? The answers to these questions are dependent on which factors one deems important when analysing different forms of gendered violence, and whose perspective is stressed as important.¹⁶²

Unni Wikan stresses that so-called *honour killings* are not the same as so-called *passion killings*, by claiming that the essence of so-called *honour killings* is not the *jealousy* of one partner against the other. Rather, the essence lies on power and control, and not on *deceived love* or *relationships*. Wikan regards so-called *honour killings* as the rights of the collective over the rights of the individual, the obligation of submission for the individual, and she also stresses the relevance of *structural power* in these crimes.¹⁶³ This perceived difference is also stressed by others, e.g. sociologist and political scientist Rasool Awla. *To*

¹⁵⁵ Typically existing in terms of perceived superiority of Europeans and the West. Blaut 1992, Abu-Lughod 2011, p. 31 and Lazaridis 2011.

¹⁵⁶ Lazaridis (edit) 2011 and Benhabib 2004, in particular p. 198.

¹⁵⁷ See Liebmann 2012, Condon *et al* 2011, Römken and Lahlah 2011 and Volpp 2011.

¹⁵⁸ Chesler 2009 and Wikan 2005.

¹⁵⁹ See Kvinnoforum 2003 and Mannerheimin Lastensuojeluliiton Uudenmaan piiri: Uhkana Kunnia. Välineitä viranomaisille kunniaväkivaltaan puuttumiseksi.

¹⁶⁰ The somewhat simplified and static way of viewing culture in this manner (even though Wikan claims that she is doing the opposite) has been criticised by multiple theorists and researchers, e.g. Şeyla Benhabib. See Benhabib 2002, p. 103. See also Said 1991 and 1981.

¹⁶¹ Here, the question is thought about primarily from the point of view of the victimised woman. Hence, I do not at this point analyse the differences between one or multiple perpetrators of crime in the manner in which would be done in criminal law.

¹⁶² Gudrun Schyman, Left Party Congress 2002.

¹⁶³ Wikan 2005, p. 22.

regard honour killings as equal to murders that spring from affection, is an underestimation of the oppression of women implicit in the term itself, Awla claims.¹⁶⁴

The contrast expressed between acts described as springing from affection/love, individual decisions and “the heat of the moment”, and those perceived as resulting from structural patterns, hatred, misogyny and oppression against women, is interesting: since it does not regard so-called *passion killings* to be a result of structural patterns of oppression of women.¹⁶⁵ Hence, the difference mainly lies in a perspective that is not intrinsically feminist. It only applies some form of feminist, structural analysis to *one* of the two forms of gendered violence.¹⁶⁶ To view the comparison of the two as an *act of love* v. *an act of hatred* is not only anti-feminist, but imperialist, culturalist, and even racist.¹⁶⁷

3.4 Culture, Feminism and Rights

In this chapter, I analyse the presumed conflict between culture, feminism and rights in order to link the description of the conflict with processes of alterity. I claim that this *conflict* does not originate from feminist thinking, nor is it necessarily supported by it. The presumed conflict between the three originates from the constructed dichotomy of *western* and *non-western* thinking and history, and roots beyond simple claims of culture.¹⁶⁸ A classic example of the representation of the dichotomy can be observed in the argumentation of political scientist Samuel P. Huntington, in his essay *The Clash of Civilizations*.¹⁶⁹ The presumed cultural conflict is particularly evident and brought to the surface in multicultural societies.¹⁷⁰ It is expressed in several anthropological, sociological,

¹⁶⁴ Independent translation from Swedish by the author: “Att likställa hedersmord med mord som begås i affekt är en underskattning av det kvinnoförtryck, som ligger i själva begreppet, anser jag.” Awla 2005, p. 129. This view on so-called *passion killings* is particularly criticised by feminist lawyer Victoria Nourse. Nourse 1997, p. 1331.

¹⁶⁵ See Eldén 2003. Baytok 2012 can be considered an example of a work where there is no difference made between the two forms.

¹⁶⁶ This was discussed e.g. in my interview with Åsa Eldén. Eldén, like many others, criticised the application of feminist theory only on certain forms of oppression of women and gendered violence, if not applying this to other forms of oppression of women and gendered violence. Åsa Eldén, 24 June 2013. See also Eldén 2003 and Dagbladet: Sviket mot Fadime.

¹⁶⁷ On the universality and particularity of gendered violence, see Ertürk 2009.

¹⁶⁸ The view of western legalism v. eastern traditionalism has been criticised e.g. by former UN Special Rapporteur Yakin Ertürk, in her critique on the notion of human rights as western and the Cairo Declaration. A/HRC/4/34, pp. 9–10 and 16 para 41.

¹⁶⁹ See Huntington 1996.

¹⁷⁰ However, the term *multicultural society* is a societal concept that is not clearly defined. It is often used to describe mostly liberal, western societies with relatively high or growing immigrant rates, and departs from the idea of the liberal Nation State. Hence, this focus is very limited to a certain time period and

legal¹⁷¹ but also certain feminist writing, such as *Is Multiculturalism Bad for Women?* by feminist philosopher and political theorist Susan Moller Okin. In certain other feminist writings, it is highly questioned and contested, e.g. in *Multicultural Jurisdictions: Cultural differences and women's rights* by lawyer and political scientist Ayelet Shachar.

3.4.1 The Concept of Culture

Culture is a concept present and relevant in everyday life and discussion, largely forming our perceptions of the world. The concept of culture remains a socially divisive regime: often taken for granted and unquestioned.¹⁷² Culture is a term easily confused with other terms, e.g. religion.¹⁷³ Culture is often used as means of describing otherness and foreignness: however, culture and otherness/foreignness are not synonyms.¹⁷⁴ It is important to highlight culture as present in *all* societies and human communication, and not only in *other* societies.¹⁷⁵ Furthermore, culture is a complex phenomenon of both *individual* and *collective* nature: it is a way of life, ancient and inherited habits codified in human languages. It is a set of multiple narratives, not necessarily similar but often conflicting, through which communal understandings, misunderstandings, aims and duties are communicated.¹⁷⁶ Cultures are not static, but constantly changing and dependent on the interpreter.¹⁷⁷ A pertinent description of culture is that it is not the object that is being seen, but rather the means used when seeing.¹⁷⁸ This definition has a meta-cognitive approach: culture is what is behind our actions, values, ideas and attitudes.¹⁷⁹

particularly to societies that can be recognised as western. See Parekh 1999, pp. 74–75.

¹⁷¹ Here, an example of some of the most prominent and significant works on multiculturalism and multiculturalist society are the works of Will Kymlicka. See e.g. Kymlicka 2001 and 1995.

¹⁷² Ertürk 2012, p. 1.

¹⁷³ Done e.g. by Susan Moller Okin. Okin 1999, p. 13.

¹⁷⁴ Honig 1999, p. 39. Honig criticises Okin for confusing the concept of culture with the concept of foreignness.

¹⁷⁵ Volpp 2001, p. 1187.

¹⁷⁶ Honig 1999, pp. 39–40.

¹⁷⁷ This is something that has been evident in many of the interviews that I have conducted. E.g. Kostas Tassopoulos, 5 June 2013.

¹⁷⁸ This somewhat Kantian description is used in Strauss and Quinn 1994.

¹⁷⁹ This definition is also used by Unni Wikan. See Wikan 2005, p. 92.

3.4.2 The Concept of Rights

In this context, rights are defined primarily within the concept of human rights. Human rights are rights established in international treaties, negotiated and adopted by governments,¹⁸⁰ within the framework of the United Nations and more regional intergovernmental organisations.¹⁸¹ All individuals are equally entitled to human rights without discrimination. Human rights are “interrelated, interdependent and indivisible”.¹⁸² Universal human rights are determined and guaranteed by sources of international law:¹⁸³ legally defining codes of conduct for governments to support and protect individual and collective human rights and fundamental freedoms.¹⁸⁴

Human rights are often regarded as cornerstones of the liberal, western concepts of law. Philosopher John Rawls has written that the necessity of human rights is motivated by their function as a standard for the propriety of the political institutions and legal order of societies: hence, they *limit the pluralism among peoples*.¹⁸⁵ Here, one can begin to distinguish a paradox, or conflict, between *cultures* and *rights*: particularly when it comes to multiculturalism and the rights of minority cultures. There exist both the individual’s human rights and cultural rights, as well as the collective rights for the group. At some point, this evokes the question of the limits of *cultural toleration*, and the protection of human rights for (in particular) the vulnerable members of minority groups.¹⁸⁶

The conflict has led to *collective group rights* being contested in the international community, particularly with regard to the rights of minorities.¹⁸⁷ Collective group rights are e.g. minority rights, the right of people to self-determination, the right to peace, the right to development, the right to humanitarian assistance and environmental law.¹⁸⁸ There are different theories regarding their status in the international community, in particular due to the fact that they do not spring from identity politics and individual rights, but from the rights of the group. Thus, they are different from the earliest, liberalist notions of

¹⁸⁰ Sometimes with certain reservations, which might have great impact on the realisation of human rights.

¹⁸¹ An-Na'im 1999, p. 62.

¹⁸² Quotation, OHCHR: What are human rights?

¹⁸³ These are treaties, customary international law, general principles and other sources of international law. OHCHR: What are human rights?

¹⁸⁴ OHCHR: What are human rights? and OHCHR: International Human Rights Law.

¹⁸⁵ Rawls 1999, p. 80. This limit to pluralism within the liberal framework has been further developed by e.g. Will Kymlicka. See Kymlicka 1995.

¹⁸⁶ See e.g. Okin 1999. See also Kukathas 1998. The paradox as referred to above, *the paradox of multicultural vulnerability* is further developed by Shachar 2001.

¹⁸⁷ This is dealt with by Abdullahi An-Na'im in his answer to Okin. An-Na'im 1999.

¹⁸⁸ Cornescu 2009.

individual human rights developed in the framework of the United Nations.¹⁸⁹ Collective group rights are often referred to as *the third generation of human rights*, revealing their position and status within the hierarchy of human rights.¹⁹⁰

3.3.4 The Concept of Feminism

Feminism refers in many ways to the concept of rights: especially the concept of equal rights, with particular stress on gender and/or sex.¹⁹¹ What once sprung from the so-called *women's movement*, endeavouring to achieve equal rights for women, is now a term covering a wide, diverse range of movements and means of analysis: academic as well as political.¹⁹² In societal debates often referred to as a singular and united movement, this is far from the truth: the theoretical and methodological frameworks that derive from feminism have a tendency for more often disagreeing than agreeing on facts, sources and means of criticism.¹⁹³ Reducing the concept of feminism to the strive for women's equal rights – thus leaving out many of the analytical aspects of the subject as such – there is a perceived threat in guaranteeing cultural rights, if this is done at the expense of women's rights. However, the reduction of multiples of experiences from different persons with diverging backgrounds to the perspective of “the man” or “the woman”, is in itself an inherently dangerous abstraction.¹⁹⁴ It is dangerous in the sense that it creates means of abuse, serving the instrumental needs of the speaker – hence, it is a concept as ambiguous as human rights.¹⁹⁵ However, one of the means of preventing this generalisation – at least to some extent – is the concept of *intersectionality*, which discovers discrimination on multiple grounds and in various forms.¹⁹⁶

¹⁸⁹ However, this does not necessarily mean that they are in conflict with a liberalist tradition. About *autonomy* and *tolerance* as two sides of the same coin, see Kymlicka 1995, p. 158.

¹⁹⁰ Cornescu 2009.

¹⁹¹ About the development of women's rights in the international legal framework, see SOU 2004:121, pp. 38–42.

¹⁹² Gunnarsson and Svensson 2009, pp. 119–178.

¹⁹³ The main sources of disagreement between different feminist theoretical and methodological frameworks are the concept of the woman, sex, gender as well as feminism as such. Krook 2006, p. 79.

¹⁹⁴ As demonstrated e.g. in Crenshaw 1991 and Gilman 1999, p. 55.

¹⁹⁵ On the abstract and ambiguous nature of human rights, see Koskenniemi 2001.

¹⁹⁶ Crenshaw 1991. See chapter 2 *Theoretical and Methodological Framework: A critical perspective on law*.

3.4.4 Conflict or Creation?

Is there a conflict between feminism, rights and cultural diversity (multiculturalism)¹⁹⁷? To be able to answer this question, the question needs to be specified further. Therefore, I have chosen to combine and simplify the concept of feminism and rights as *women's rights from a feminist perspective*,¹⁹⁸ which is claimed to be in conflict with the scope of multiculturalism and minority group rights in western societies. The conflict, or paradox – offering only two possibilities for a woman: her rights or her culture – is represented in the writings of e.g. Okin and political theorist Chandran Kukathas.¹⁹⁹ However, this conflict is negotiated and put into different light, e.g. in the writings of Shachar. She offers a way of getting behind what she calls *the paradox of multicultural vulnerability* in order to strengthen the most vulnerable groups in minority cultures (*nomoi*).²⁰⁰ Shachar offers an inventive model of solving the conflict within the liberal state framework – however, she does not herself question the existence of the conflict.

In order to solve the presumed conflict of women's rights and the rights of minorities, I think that there is a need to go *beyond* the conflict not only in a practical way, as is done by Shachar, but also to question the very foundational existence of the presumed conflict.²⁰¹ Not questioning the facts that women in some minority cultures have been object to practices of inequalities in e.g. rules of marriage and heritage,²⁰² there is a need to understand *where* this conflict originates from. The conflict mainly originates from universalist thinking patterns, which undoubtedly stem from western liberal paternalism.²⁰³ It places the interests of *non-male* and *non-majority* (often western) actors against each other; it does not offer women of a minority culture a framework to claim their rights.²⁰⁴ Seeing women as mere *victims* rather than *actors* of culture in fact limits their participation in the discussion, ultimately undermining their rights.²⁰⁵ Thus, I claim that the

¹⁹⁷ Multiculturalism here as the *toleration* of the parallel existence of different cultures in a certain place, *assimilation* as the *opposite*. Abbas 2011, p. 22.

¹⁹⁸ By a *feminist perspective*, I primarily refer to a gender-sensitive approach that is particularly focused on the role and the position of the woman.

¹⁹⁹ Kukathas assumes the same binary as Okin: however, he thinks that cultural rights should prevail over women's rights, as long as there is a possibility to opt out of the group. Kukathas 1998.

²⁰⁰ See particularly Shachar's theory on transformative accommodation, where she finds a way to utilise external protections in order to reduce internal restrictions. Shachar 2001, pp. 117–145.

²⁰¹ As done by other writers. See Volpp 2001 and Bhabha 1999.

²⁰² Volpp 2001 and Al-Hibri 1999.

²⁰³ These thinking patterns are evident in Slaughter 2000.

²⁰⁴ See Ghobadzadeh 2010.

²⁰⁵ See Crenshaw 1991 and de los Reyes and Mulinari 2005.

dichotomous thinking that derives from western, patriarchal tradition²⁰⁶ and liberalist heritage, can be harmful in the context of multiculturalism, if it remains unchallenged.²⁰⁷

However, the later political movements for feminism and multiculturalism originate from the same societal post-modernist movements, attempting to offer alternative, non-capitalist perspectives to the world, outside the framework provided by traditional liberal theory.²⁰⁸ The aims of both feminism and multiculturalism in the West have originally been to support vulnerable groups in society.²⁰⁹ Today, multiculturalism and feminism are rarely viewed as parts of the same phenomenon within policy and academia. However, this does not make them incompatible.²¹⁰

The traditional liberalist law approach, largely constituting the foundation of international human rights doctrine, somewhat contests the position of collective group rights in the international community today.²¹¹ Thus, the dichotomous division of *collective v. individual* can also be seen within the field of human rights and international law.²¹² In this study, multiculturalism and feminism are not viewed as opposite claims.²¹³ They are rather seen as parallel ways of approaching vulnerabilities of the liberal system, mainly as it is expressed in the West. They both enable different possibilities for empowering vulnerable and disadvantaged groups. In my view, multiculturalism should be regarded as a possibility to develop, pluralise and transform patriarchal patterns within claims of cultures.²¹⁴

²⁰⁶ Referring to *patriarchal tradition*, I aim at describing a certain kind of structural male supremacy over women: deriving from and enforced in many aspects of society. However, patriarchy might take many forms, depending on the societal and cultural context, thereof the word *tradition*. See Kandiyoti 1988.

²⁰⁷ It is important to highlight here that liberalism and multiculturalism are in no way opposites: they rather, to a certain extent, represent two sides of the same coin. Multiculturalism is in no ways a new phenomenon in Europe, the “new” perception of multiculturalism rather stems from nationalism and the creation of the Nation State; seen in Huntington 1996.

²⁰⁸ Kymlicka 1999, p. 33.

²⁰⁹ Reynolds and Constantine 2004. See Ghobadzadeh 2010.

²¹⁰ This relationship is often investigated in postmodern gender studies. See Reynolds and Constantine 2004 and Ghobadzadeh 2010.

²¹¹ Visible in the argumentation by Okin, see Okin 1999.

²¹² However, they are not necessarily in a static conflict where the one has to out-rule the other, but have to be premeditated in different contexts and situations. An-Na’Im 1999, p. 63.

²¹³ However, this does not mean that they cannot come to different conclusions or that they in individual cases can make opposite claims.

²¹⁴ Ghobadzadeh 2010, p. 309. The difference is evident in different policy frameworks. Ghobadzadeh is comparing the Canadian political framework with the Australian political framework, and comes to the conclusion that the Canadian political framework has been much more successful in including Muslim women in society and politics than the Australian political framework has. This is, according to Ghobadzadeh, a result of the Canadian political framework allowing for a greater amount of multicultural movements and claims.

*Worldwide, it has been estimated that violence against women
is as serious a cause of death and incapacity
among women of reproductive age
as cancer,
and a greater cause of ill-health
than traffic accidents and malaria combined.*

World Health Organization²¹⁵

²¹⁵ World Health Organization 1997, p. 1.

4 Legal and Policy Approaches: A universal issue?

This chapter accounts for foundational elements in the international, Finnish and Turkish legal and policy frameworks surrounding gendered violence and majority/minority positions. Gendered violence is – as highlighted in the Beijing Platform for Action – the most striking and visible face of the unequal power relationship between the genders.²¹⁶ According to a survey published by the World Health Organization in 2013, 35.6 per cent of women worldwide have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence.²¹⁷ Abuse by a male partner is a widespread form of gendered violence faced by women worldwide, a fact traditionally silenced in public discussions.²¹⁸ 38 per cent of all murders of women worldwide are committed by (mainly male) partners.²¹⁹ Statistical data on gendered violence being important, there is a need to harmonise and develop the definitions of violence and methods for gathering data, in order to provide results that are equally representative and true for every country investigated.²²⁰

In the discourse analysis performed in the fifth chapter, gendered violence is limited to domestic violence with death as the outcome. The women in the cases investigated have been victims of various forms of violence, often during a long period of time: sometimes, this violence is accounted for in the judicial decisions, and sometimes, only the physical violence resulting in their death is stated in the judgement. In order to begin to grasp the realities of (mainly female) victims, it is important to understand the *normalisation process of violence*, following from a *continuum of violence* surrounding many women. Rarely mentioned in criminal legal doctrine,²²¹ described by sociologist Eva Lundgren, the *normalisation process of violence* is used to describe the *power exercised* through systematic, escalating gendered violence in a relationship, leading to the victim ultimately accepting the explanations of the violence as they are formulated by the perpetrator. Thus,

²¹⁶ Turkish Prime Ministry Directorate General on the Status and Problems of Women 2004, p. 4.

²¹⁷ World Health Organization 2013, p. 20.

²¹⁸ World Health Organization 2005, pp. 4 and 26–42.

²¹⁹ World Health Organization 2013, p. 26.

²²⁰ Due to e.g. different understandings of violence in different countries. ST/ESA/STAT/SER.K/19, p. 129 and World Health Organization 2005, pp. 4–7.

²²¹ Falling outside the traditional scope of legal relevance, which is particularly interested in a relatively limited series of events, the assessment of the act being divided into “objective” and “subjective” elements. See Frände 2004, on the concepts of *actus reus* (*se: gärningsculpa*), *intent* (*se: uppsåt*) and *negligence* (*se: oaksamhet*), pp. 98–154 and 219–238. An excellent example of the limited interest of criminal law can be observed in the writings on the concept of self-defence by Minna Ruuskanen, Ruuskanen 2005.

the violence is normalised.²²² The *continuum of violence*, as described by Lundgren and sociologist Liz Kelly, can be considered to be a feminist understanding of violence, where a pattern and reality of violence is recognised, affecting particularly women.²²³ Hence, it is important to understand and recognise the *multiple forms* of violence existing, and not e.g. only its more severe forms.²²⁴ The context of the violence should *always* be taken into consideration – be the perpetrator a partner and/or a family member – since the normalisation process and the continuum of violence always are to be understood from the perspective of the victim.²²⁵ Forming the every-day reality for the victim of violence, the effects can be stronger and more long-lasting, particularly if the victim is a child and the violence occurs in the family. This explains the fact that if there is a history of violence in a woman's childhood, the risk that she will be re-victimised as an adult is greater.²²⁶

4.1 International Legislation and Policy Framework

During the last decades, gendered violence has received attention on international levels. In the following, I provide a summary of the most relevant international legislation and policy framework that regulates gendered violence, focusing on the work of the United Nations (UN), very briefly mentioning the work of the Council of Europe (CoE) and the European Union (EU). I have considered this summary necessary in order to account for the international framework, providing *guidelines* and *obligations* for the governments of Finland and Turkey.²²⁷ However, the focus of my thesis does not lie in international obligations, recommendations, harmonisation efforts and other legal instruments, but rather on *law in practice*. Therefore, this summary functions as part of the surrounding context, in which the results of the discourse analysis can be discussed.

Within the framework of the UN, there are numerous documents addressing gendered

²²² Lundgren 2013 and 1992. Lundgren has described the significance of violence in her theory on gender constitution in Lundgren 1993. This has also been highlighted by sociologist Nea Mellberg in her work on sexual violence against children. Mellberg 2002, in particular pp. 52–60. See also Jenny Westerstrand in DN Kultur: Här är sanningen i debatten om hedersvåld.

²²³ Lundgren 2013, 1993 and 1992. Kelly 1988 and 1987.

²²⁴ E.g. the significance of threats of violence. See Eldén 2003, Regeringens Skr. 2009/10:229, Regeringens Skr. 2007/08:39 and Lundgren *et al* 2001.

²²⁵ About the crucial importance of context, see Lundgren and Westerstrand 2002, p. 172.

²²⁶ Messman-Moore and Long 2000. However, patterns and histories of violence from the perspective of the victim are often excluded in research on violence, due to narrow research questions. Williams 2003.

²²⁷ Even though Turkey is not a member state of the EU, it is highly influenced by the work and the political and legislative development of the EU, mainly because of the membership negotiations. This is well demonstrated in the annual EU progress reports. See European Commission 2013 and 2012.

violence. Violence against women (VAW) was officially mentioned within the framework of the UN as an obstacle for gender equality during the Nairobi World Conference on Women in 1985,²²⁸ and officially recognised as an issue for human rights in the Vienna Declaration and Programme for Action of 1993.²²⁹ VAW is addressed as a separate area of concern in the Beijing Platform of 1995.²³⁰ Two of the most important legal documents concerning gendered violence can be considered to be the Convention of the Elimination of all forms of Discrimination Against Women (CEDAW) of 1979 and the Declaration on the Elimination of Violence Against Women (DEVAW) of 1993. The UN, particularly the General Assembly, has adopted several important legal documents combating gendered violence.²³¹ The UN is working against gendered violence in many ways, e.g. through the concept of gender mainstreaming²³² and through various campaigns on the matter.²³³

Despite being legally binding, the CEDAW does not impose sanctions upon governments for non-compliance: the consequence being a large gap between *universal rights* and *universal remedies*. Compliance with the CEDAW is monitored by the CEDAW Committee.²³⁴ The CEDAW does not specifically mention violence as one form of discrimination against women, but this has been specified in the CEDAW General Recommendations.²³⁵ Both Turkey and Finland have signed and ratified the CEDAW.²³⁶ Unlike the CEDAW, the DEVAW is a Declaration, and not a Convention. Therefore, its articles are not legal mandates, but rather recommendations and guidelines. The DEVAW addresses the structural violence of male perpetrators against female victims, and

²²⁸ Report of the Nairobi Conference 1985, p. 70 para 288. This was much a result of the international women's movement. This subject was discussed during a lecture held by Åsa Eldén at the Swedish Research Institute. Åsa Eldén, 27 June 2013.

²²⁹ Vienna Declaration and Programme of Action 1993. See also the report issued on the Vienna Conference and Declaration, United Nations Secretary General 1993.

²³⁰ Beijing Declaration and Platform for Action 1995, pp. 48–55, paras 112–130. The Beijing Declaration and Platform for Action is also followed up in the work of the UN. See A/RES/58/148.

²³¹ Women 2000: Gender equality, development and peace in the twenty-first century. The UN has addressed violence perpetrated in the name of honour in their work. However, there has been much discussion on the subject and no consensus has been reached in the UN. See A/RES/59/165, A/RES/57/179, A/C.3/59/L.25, E/2004/23/Corr.1 (Part I) and E/CN.4/127/Corr.1 (Part I) and Pervizat 2006, pp. 309–314.

²³² As introduced in the Beijing Declaration and Platform for Action 1995. See Moser and Moser 2005 and UN ECOSOC Report 1997.

²³³ The campaign *UNiTE to End Violence against Women* being one important example of a current campaign. The United Nations: United Nations Secretary-General's Campaign UNiTE to End Violence against Women.

²³⁴ Merry 2003a and OHCHR: Committee on the Elimination of Discrimination Against Women.

²³⁵ In particular, CEDAW General Recommendations nos. 12, 19, 21 and 24.

²³⁶ Finland signed the CEDAW in 1980 and ratified it in 1986. Finland has made no reservations to the CEDAW. Turkey signed and ratified the CEDAW in 1985. Turkey has made one reservation to the CEDAW that is still in force, this reservation is that it considers itself not to be bound by Article 29, paragraph 1. UNTS: CEDAW Signatories and Ratifications.

consequently calls on States to make structural reforms in order to fully combat the issue. It defines violence as encompassing (but not being limited to) physical, sexual and psychological violence occurring in the family, community or perpetrated or condoned by the State.²³⁷ In the same process as introducing the DEVAW, the UN Commission on Human Rights decided to appoint a Special Rapporteur on violence against women (SRVAW).²³⁸

Within the framework of the Council of Europe, gendered violence has been addressed through soft law instruments and campaigns since 1985.²³⁹ The most important achievement in the area can be considered to be the Istanbul Convention,²⁴⁰ opened for signature in May 2011. The Convention adds to the framework provided by the CEDAW, as well as the ECHR and the ECtHR case law. One of its main achievements is that it strives towards *substantive equality* between men and women, and that it is *legally binding*.²⁴¹ The Convention constitutes²⁴² an important legal document, in some ways representing a hybrid between law and politics: focusing on the rights of the victim to a large extent.²⁴³ So far, it has been signed by 32 CoE member states, including Finland. It has been signed and ratified by seven CoE member states, Turkey being one of them. It has not yet entered into force, the condition for this being ten ratifications, of which eight have to be CoE member states.²⁴⁴

When it comes to the framework of the European Union, gendered violence has been on the agenda since 1993.²⁴⁵ The EU is working against gendered violence on multiple levels, e.g. through making the rights of the victim a priority in EU legislation, various awareness-raising activities and support to NGOs with transnational projects to combat violence

²³⁷ According to Articles 1 and 2 of the DEVAW.

²³⁸ In resolution E/CN.4/RES/1994/45. Since then, the mandate has been renewed. It was renewed last in 2013, in resolution A/HRC/ RES/23/25. About the tasks of the SRVAW, see Ertürk and Purkayastha 2012, p. 145. The SRVAW reports to the Human Rights Council. As of the Human Rights Council Decision 1/102. See OHCHR: Special Rapporteur on violence against women, its causes and consequences.

²³⁹ SOU 2004:121, p. 42. A relatively recent campaign is Council of Europe: Campaign to combat violence against women, including domestic violence (2006–2008).

²⁴⁰ Council of Europe Convention on preventing and combating violence against women and domestic violence (opened for signature in Istanbul, 11 May 2011) CETS no. 210.

²⁴¹ Christine Chinkin, 27 May 2013. See Council of Europe: The Istanbul Convention and the CEDAW framework: A comparison of measures to prevent and combat violence against women and Council of Europe: Safe from Fear, Safe from Violence.

²⁴² At least, it holds the potential of constituting such: depending on its ratification and implementation.

²⁴³ Christine Chinkin, 27 May 2013. This was also addressed by Kevät Nousiainen, in her comment to Chinkin's speech during the seminar on the Istanbul Convention, held on the 27 May 2013. Kevät Nousiainen, 27 May 2013.

²⁴⁴ Council of Europe Treaty Office: Council of Europe Convention on preventing and combating violence against women and domestic violence CETS no.:210.

²⁴⁵ SOU 2004:121, pp. 42–43.

against women, children and young people.²⁴⁶ Three of the most important documents within the framework of gendered violence can be considered to be the *Guidelines on violence against women and girls and combating all forms of discrimination against them*,²⁴⁷ the *Strategy for equality between men and women 2010–2015*,²⁴⁸ and the *Women's Charter*.²⁴⁹ However, most of the work by the EU can be considered important on the policy level, rather than as directly applicable legal obligations.²⁵⁰

Gendered violence is an issue of high relevance on the international level: at least on the level of policy framework.²⁵¹ However, the risk of a great gap between *de jure* rights and *de facto* reality is considerable.²⁵² In the next sections, I investigate the national developments in Finland and Turkey, in order to get a sample of the implementation of international obligations within the work against gendered violence.

4.2 Gendered Violence in Finland

The progress of the combat against gendered violence in Finland has been heavily influenced by the international framework and international pressure. The relationship to gender equality in Finland is dubious: being the first country in the world where women could exercise full political rights in 1906,²⁵³ Finnish women have gained quite advanced rights in the public sphere.²⁵⁴ However, Finland has received much international critique

²⁴⁶ An example of this is the Daphne (i, ii and iii) programmes, supporting various projects with the aim to decrease violence. Daphne Toolkit: The Daphne Toolkit – An active resource from the Daphne Programme. See European Commission: Zero tolerance of violence against women and girls.

²⁴⁷ Adopted by the General Affairs Unit at the Council of the European Union. European Union: Guidelines on violence against women and girls and combating all forms of discrimination against them.

²⁴⁸ Adopted by the European Commission. European Commission/COM/2010/0491 final, pp. 8–9.

²⁴⁹ A declaration adopted by the European Commission. European Commission/COM/2010/0078 final.

²⁵⁰ This is also true for non-EU member states, in particular States with prospects of EU-membership, such as Turkey. In the sense of *legal framework*, one could however count the non-discrimination law of the EU. However, the non-discrimination directives within the framework of gender equality do not directly address gendered violence. Thus, I have chosen to leave them outside the scope of this study.

²⁵¹ The *de facto* involvement of states on the legally binding level can, however, be questioned. This is seen e.g. in the low ratification number of the Istanbul Convention, even though it has been open for signature and ratification for over two years.

²⁵² The work against gendered violence has to be implemented on multiple levels and at multiple stages of the process: a particular responsibility lying on prosecuting and punishing the perpetrators, and to provide the victim of violence with necessary legal assistance. ST/ESA/329, pp. 31–53.

²⁵³ Full political rights being the right to vote and to stand for election. In New Zealand women were granted the right to vote in 1893, and in Australia women were given the right to vote and to stand for election in 1902. However, Finnish women were the first women to be able to exercise these rights. See Centenary of women's full political rights in Finland: The General Strike and women's suffrage.

²⁵⁴ According to a new European index, Finland has the third highest score in gender equality in the EU. The index was based largely on women's advancement in the public sphere. Yle Uutiset: Index: Finland third in gender equality in EU.

when it comes to gendered domestic violence. Finland signed the CEDAW in 1980 and ratified it in 1986.²⁵⁵ In 1994, Finland criminalised marital rape. This was done after large and long-lasting debate in parliament and pressure from certain activists and organisations, nationally as well as internationally.²⁵⁶ In comparison, rape within marriage was criminalised in neighbouring country Sweden in 1962.²⁵⁷ The legislative changes in order to regard assault in close relations as offences under public prosecution were finalised in 2011.²⁵⁸

The killing of a woman by her partner is the second most common form of homicide in Finland.²⁵⁹ According to official surveys by Finnish authorities, around 17 women were murdered annually by their partners in the beginning of the 2000s.²⁶⁰ If former partners are included, it is estimated that this number ranges from 20 to 26.²⁶¹ The likelihood that a woman will be victimised in domestic violence in Finland exceeds the EU average rate.²⁶² According to surveys performed during 1980–2009, approximately three quarters of the family violence²⁶³ cases concerning assault were perpetrated by a partner or former partner: in one quarter of the cases, the perpetrator was another member of the family.²⁶⁴ The numbers of adult women²⁶⁵ that have been or are faced with sexual or physical violence or the threat of such are around 40 per cent, depending on the survey and definition of violence.²⁶⁶ Every year, the police receives over 5 000 reports of domestic violence in Finland.²⁶⁷ However, many cases of domestic violence are not litigated in trials in Finland, but in mediation processes – a fact often perceived as problematic: not offering enough protection to victims and easily leading to re-victimisation.²⁶⁸ In an attitude survey committed by the World Values Survey Association in 2010, around 17 per cent of Finnish

²⁵⁵ UNTS: CEDAW Signatories and Ratifications.

²⁵⁶ See HE 365/1992 and LaVM 4/1994.

²⁵⁷ Väestöliitto: Seksuaalinen väkivalta.

²⁵⁸ 13.5.2011/441.

²⁵⁹ Salmi *et al* 2009, p. 1.

²⁶⁰ Väestöliitto: Väkivallan yleisyys.

²⁶¹ CoE Commissioner for Human Rights 2012a, p. 10.

²⁶² Salmi *et al* 2009, p. 4.

²⁶³ *Fi: perheväkivalta*.

²⁶⁴ Sirén *et al* 2010, p. 13.

²⁶⁵ Over 15 years of age. Heiskanen and Piispa 1998.

²⁶⁶ Piispa *et al* 2006 and Heiskanen and Piispa 1998.

²⁶⁷ When it comes to cases of rape, very few cases are reported to the police. Amnesty International 2013, p. 11.

²⁶⁸ Amnesty International 2013, pp. 11–12. To reduce mediation in cases concerning domestic violence is one of the aims of the Finnish Government in their Gender Equality Programme of 2012–2015. STM 2012:10, pp. 32–33.

men responded that *it is sometimes justifiable for a man to beat his wife*.²⁶⁹

Finnish authorities have received remarks from multiple international actors, e.g. by Amnesty International, the CoE and the CEDAW Committee, for their shortcomings in effectively combating gendered violence.²⁷⁰ As a result of the international critique, gendered violence has been addressed in the current Gender Equality Programme of the Finnish Government²⁷¹ and the particular Action Plan to reduce violence against women, initiated by the Government in 2010.²⁷²

Even though actions to combat gendered violence have been taken during recent years in Finland,²⁷³ many problems remain. For instance, there is no legal obligation in Finland to provide shelters for victims of violence,²⁷⁴ the queues for public mental health care are long,²⁷⁵ the legal definitions of assault and attack are problematic when it comes to domestic violence,²⁷⁶ the legal definition of rape is highly problematic from the victim's perspective²⁷⁷ and the problems in legislation are often enforced and worsened by the attitudes of law enforcement authorities.²⁷⁸ Many of the problems relate to insufficient laws and problems in the criminal process, but also to insufficient funding and financial support from the State.²⁷⁹ Shelters and organisations working with victims of violence and with anti-violence work are often funded on a short-term project basis. This insecure form of funding is often perceived as threatening, affecting the activities of anti-violence work.²⁸⁰

Gendered violence is generally not addressed in the Finnish public spheres, such as in

²⁶⁹ This expression was used in the survey. In order to keep the authenticity of the survey, it is also used in this context – despite its implicit heteronormativity. UN Women 2011, p. 32.

²⁷⁰ Amnesty International 2013, pp. 11–12, CoE Commissioner for Human Rights 2012a, Ulkoasiainministeriö: YK:n naisten syrjinnän poistamista käsittelevä komitea antoi Suomelle suosituksensa naisten oikeuksien toteuttamisesta and United States Department of State 2012a, p. 11.

²⁷¹ STM 2012:10.

²⁷² STM 2010:5.

²⁷³ Examples of action that has been taken is e.g. the introduction of a legislation concerning restraining orders and the changes in the Criminal Code during the 1990s and 2000s. See CEDAW/C/FIN/5, pp. 20–23. See also HE 94/1993 and HE 286/2010.

²⁷⁴ CoE Commissioner for Human Rights 2012a, p. 11.

²⁷⁵ This was discussed during my interview with Heidi Kontkanen at the shelter Pääkaupungin turvakoti ry. The effects of the insufficient funding of preventive measures are often felt by the shelters. Heidi Kontkanen, 22 February 2013.

²⁷⁶ See Ruuskanen 2005 and Niemi-Kiesiläinen 2004.

²⁷⁷ This has been criticised e.g. by Amnesty International. Amnesty International 2010, p. 11.

²⁷⁸ See Kainulainen 2004.

²⁷⁹ This is true e.g. for the Action Plan 2010 and the planned ratification of the Istanbul convention. CoE Commissioner for Human Rights 2012a, p. 11, Amnesty International 2013, p. 12, Ulkoasiainministeriö 2013 and STM 2010:5.

²⁸⁰ This was discussed e.g. during my interview with Matti Kupila. Matti Kupila, 7 February 2013. The financial difficulties can be seen e.g. in the closing down of shelters, which was done in Espoo in December 2012. Länsiväylä: Espoon turvakodin ovet pannaan kiinni.

education or in discussions at the workplace.²⁸¹ The attitudes towards gendered violence can be considered to be problematic: according to a Eurobarometer survey in 2010, only 67 per cent of the Finnish respondents thought that the government ought to be helping victims of domestic violence. This was among the lowest percentages in the EU.²⁸² According to the same survey, many violence myths are prevalent in Finland: alcohol, drug addiction, poverty/social exclusion, unemployment and religious beliefs were mentioned as major causes for domestic violence, all above EU average.²⁸³ *Provocative behaviour of women* was also regarded as a *contributing factor to domestic violence* by 74 per cent of the Finnish respondents, considerably higher than the EU average on 52 per cent.²⁸⁴

4.2.1 Finnish Legislation

In this section, Finnish legislation on gendered violence is investigated only concerning intentional homicide. This is done due to the focus of the thesis – also, unfortunately, partly limiting the understanding of gendered violence. The Finnish regulation of homicide can be found in the Finnish Criminal Code (39/1889), chapter 21 sections 1–3. The different forms of intentional homicide are, since 1995, divided into regulations of a general form, an aggravated form as well as an extenuated form. These are referred to as *manslaughter* (section 1, *fi: tappo*), *murder* (section 2, *fi: murha*) and *killing* (section 3, *fi: surma*).²⁸⁵ In the following, I primarily focus on *murder* and *killing*, the aggravated and extenuated forms of intentional homicide.

Manslaughter is simply described as the act of killing another person – intent is not mentioned in the section, it being the assumed form of the offences described in the Criminal Code.²⁸⁶ For manslaughter, the law provides for a sentence of imprisonment of a fixed period, minimum eight years. Murder, the aggravated form of manslaughter, is described as an act of manslaughter that is *premeditated, committed in a particularly brutal or cruel manner, committed by causing serious danger to the public or committed by killing a public official on duty maintaining public order or public security, or because of an official action*. In addition, the offence also has to be *aggravated when addressed as a*

²⁸¹ Special Eurobarometer 344, 2010, pp. 12–23.

²⁸² Special Eurobarometer 344, 2010, p. 115.

²⁸³ Special Eurobarometer 344, 2010, pp. 69–88.

²⁸⁴ Special Eurobarometer 344, 2010, tables p. 187.

²⁸⁵ Finnish Ministry of Justice: Unofficial translation of the Criminal Code of Finland.

²⁸⁶ Independent translation from Finnish by the author: ”Joka tappaa toisen, on tuomittava taposta vankeuteen määrääjäksi, vähintään kahdeksaksi vuodeksi.” See also HE 94/1993, p. 92.

whole to be legally considered a murder. For murder, the law provides for a sentence of life imprisonment.²⁸⁷ Since the amendment in 1995, the list of grounds for considering a manslaughter a murder is not open-ended, but closed.²⁸⁸ According to the preparatory works of the law, personal motives, e.g. jealousy, are mentioned as grounds for not considering a homicide of a public official a murder, while revenge as motive in general can be qualified as mediation, ultimately regarding the manslaughter a murder.²⁸⁹

The extenuated form of manslaughter, a killing, is described as an act of manslaughter, where the *exceptional circumstances of the offence, the motives of the offender or related circumstances, when assessed as a whole, is to be considered committed under mitigating circumstances*. For this offence, the law provides for a sentence of imprisonment for at least four, and at most ten years.²⁹⁰ The offence was introduced as a separate section in 1995, and is, according to the preparatory works, to be applied only *exceptionally*.²⁹¹ One example of mitigating circumstances, mentioned in the preparatory works, is the exceptional agitation of the perpetrator. Examples of situations where exceptional agitation can occur are not laid down in the Government Bill. However, it is mentioned that this exceptional agitation could be a state of mind, which is not enough to be considered as a state of impaired sanity.²⁹²

In the case law of the Supreme Court, there is a particularly interesting case from 1997 concerning *exceptional agitation* in the extenuated form of manslaughter. In the case, a man had discovered his wife and her lover (who was also his friend and second cousin) having sexual intercourse in a summer house. After the discovery, the defendant left the summer house, but returned later. When the defendant returned, he shot his wife's lover and pointed the gun at his wife. However, he did not shoot her. It is written in the judgement by the Supreme Court that the defendant *had acted in an exceptional condition*

²⁸⁷ Finnish Ministry of Justice: Unofficial translation of the Criminal Code of Finland. The official version in Finnish: "Jos tappo tehdään 1) vakaasti harkiten, 2) erityisen raa'alla tai julmalla tavalla, 3) vakavaa yleistä vaaraa aiheuttaen tai 4) tappamalla virkamies hänen ollessaan virkansa puolesta ylläpitämässä järjestystä tai turvallisuutta taikka virkatoimen vuoksi ja rikos on myös kokonaisuutena arvostellen törkeä, rikoksentekijä on tuomittava *murhasta* vankeuteen elinkaudeksi".

²⁸⁸ See HE 94/1993, p. 92 and Lappi-Seppälä *et al* 2009, p. 497.

²⁸⁹ See HE 94/1993, p. 93.

²⁹⁰ Finnish Ministry of Justice: Unofficial translation of the Criminal Code of Finland. The official version in Finnish: "Jos tappo, huomioon ottaen rikoksen poikkeukselliset olosuhteet, rikoksentekijän vaikuttimet tai muut rikokseen liittyvät seikat, on kokonaisuutena arvostellen lieventävien asianhaarojen vallitessa tehty, rikoksentekijä on tuomittava *surmasta* vankeuteen vähintään neljäksi ja enintään kymmeneksi vuodeksi."

²⁹¹ Particularly highlighted in LaVM 22/1994, pp. 11–12. Lappi-Seppälä *et al* 2009, pp. 499–501. See also Matikkala 2000, pp. 59–60.

²⁹² HE 94/1993, p. 94.

*of stress. [...] Even though he had been suspecting the relationship between his wife and X [the deceased victim] for a couple of days, the discovery had deeply shocked and hurt the defendant.*²⁹³

However, the Supreme Court ruled that the defendant had not acted in an exceptional agitation sufficient enough to qualify for the extenuated form of manslaughter.²⁹⁴ According to the Supreme Court, *his [the defendant's] actions immediately after the discovery had been controlled and he had had a couple of hours to consider the situation before committing the manslaughter. Shooting X, he [the defendant] has had to understand the meaning and the illegal nature of killing another human being. The situation and the circumstances presented above are not, when assessed as a whole, exceptional enough for the Supreme Court to regard the situation a killing, rather than a manslaughter.*²⁹⁵ Thus, the Supreme Court regarded *the couple of hours for consideration* important for not regarding the manslaughter to have been committed in extenuating circumstances.²⁹⁶ However, the case was not even considered as a murder in the judgement by the Supreme Court, nor by any of the lower court instances. This indeed raises the question of the legal judgement of so-called *passion killings* in Finland.

The more detailed and closed description of *murder versus* the more open description of *killing* are the consequences of a wide interpretation of the principles *nullum crimen sine lege* and *nulla poena sine lege*, typically receiving a strong recognition in the legalistic Finnish criminal law.²⁹⁷ In practice, the application of the two principles in the case of homicide means that an action cannot be considered a murder if this is not clearly stated in the section. Thus, it is a way of the law to bind the hands of the judiciary: to make sure that the section is not used outside the letter of the law.²⁹⁸ However, this is not the case with the extenuated form of manslaughter – here, the legalistic legal culture opens up for a more

²⁹³ Independent translation from Finnish by the author: “A on, kuten terveydenhuollon oikeusturvakeskus on lausunnossaan todennut, toiminut poikkeuksellisessa stressitilanteessa. [...] Vaikka hän oli jo muutamien päivien ajan epäillyt, että hänen vaimollaan ja X:llä oli keskenään suhde, havainto on järkyttänyt ja loukannut häntä syvästi.” KKO:1997:153, the Supreme Court, Judgement given 8 October 1997.

²⁹⁴ Highlighting the exceptional application of the section *killing*. Lappi-Seppälä *et al* 2009, pp. 500–501.

²⁹⁵ Independent translation from Finnish by the author: “Hänen toimintansa on kuitenkin välittömästi havainnon jälkeen ollut kontrolloitua ja hän on kyennyt ennen surmatyötä pohtimaan tilannetta muutaman tunnin ajan. Hänen on täytynyt X:n ampuessaan käsittää toisen ihmisen surmaamisen merkitys ja oikeudenvastaisuus. Olosuhteet ja rikokseen liittyvät edellä todetut seikat eivät kokonaisuutena arvostellen ole olleet niin poikkeukselliset, että hänet tapon asemesta tulisi tuomita surmasta”. KKO:1997:153, the Supreme Court, Judgement given 8 October 1997.

²⁹⁶ See Matikkala 2000, p. 60 and Honkasalo 1970, pp. 18–19.

²⁹⁷ As can be seen e.g. in Matikkala 2005, pp. 15–21.

²⁹⁸ Matikkala 2005, pp. 15–16.

independent interpretation by the judiciary, in favour of the defendant.²⁹⁹ In other words, even though it is stated in the preparatory works that the offence of killing only should apply to exceptional cases of manslaughter, the hands of the judiciary are more free to apply the section than they are in the case of murder.

4.2.2 Gendered Violence and Majority/Minority Positions in Finland

In this section, gendered violence is discussed particularly regarding essentialising strategies. This is done with reference to minority and majority positions within Finnish society, and the focus is on what is often referred to as *immigrant groups* or *ethnic and cultural minorities* as perceived minorities in Finnish authority work.³⁰⁰ The aim of this section is not to reduce the seriousness of gendered violence faced by immigrant women in Finland, nor to undermine the fact that it is important to investigate and analyse patterns of violence perpetrated against these women. However, there is an implicit risk in treating the cases concerning gendered violence in a minority group as a *different* form of violence than the gendered violence of the majority group, in particular if the political, societal and individual context is not regarded. This risk primarily constitutes the creation of *culturalist explanations* of violence – not truly beneficial from the perspectives of minority women – as well as the risk of ignoring universal patterns of gendered violence.³⁰¹

Largely due to the growing support of the nationalist and anti-immigration rhetoric of the Finns party,³⁰² Finnish media has turned much attention to anti-immigration politicians and parties.³⁰³ Finland has been criticised by several international actors for not taking the problem of racism and xenophobia seriously enough.³⁰⁴ Structural racism and discrimination, such as ethnic discrimination on the labour market, are problems in Finnish society.³⁰⁵ In 2011, 86 per cent of the suspected hate crimes filed by the police were

²⁹⁹ This is generally the case in Finnish Criminal law: and this was particularly highlighted in the amendment of 1995. See HE 94/1993.

³⁰⁰ See e.g. SM 29/2009, SM 1/2008 and STM 2005:15.

³⁰¹ Ertürk 2009. This was also discussed during my interview with Åsa Eldén. Åsa Eldén, 24 June 2013.

³⁰² In some contexts, referred to as *the True Finns*, which was their earlier party name in English.

³⁰³ See Keskinen 2011a and 2011b, *Migrant Tales: Why does the Finnish media give so much attention to anti-immigration politicians and parties?* and Raittila 2009.

³⁰⁴ E.g. through insufficient funding of projects aimed at combating racism, xenophobia and related intolerance. Examples where capacities and competences should be enhanced are the Ombudsman for Minorities, the National Discrimination Tribunal in Finland and the Advisory Board for Ethnic Relations, according to ECRI. CRI(2013)19.

³⁰⁵ TEM 16/2012.

recognised as having racist motives.³⁰⁶ However, gendered domestic violence is generally not regarded as a hate crime in Finnish society, even though research suggest that domestic violence affects minority women to a greater extent than majority women.³⁰⁷ One problematic feature in public discussions, media and certain authority reporting is that Finnish majority society is viewed as a culturally homogeneous entity, facing a challenge posed by immigration.³⁰⁸ However, immigration numbers having increased during the last couple of years,³⁰⁹ it is important to keep in mind that people have migrated to Finland at least during the last two centuries,³¹⁰ and that the view of Finnish society as homogeneous is simplified, generalised and often used in order to justify racist discourses.³¹¹

With an intersectional approach, it is particularly important to regard gendered violence against this background. The public discourse in Finland on gendered violence in immigrant families, primarily in the form of so-called *honour violence* and forced marriages, has strongly been affected by discourses in other Nordic countries.³¹² Explaining the low reporting and awareness of violence in immigrant families, the relatively low numbers of immigrant population in Finland are repeatedly stressed in different regards.³¹³ Pointing out the number of immigrants as the only reason for low reporting of gendered violence is problematic, since it does not problematise the linkage between gendered violence and racist views on majority/minority positions in society.³¹⁴

In Finland, there are and have been particular projects, aimed at addressing violence faced by immigrant girls and women.³¹⁵ This can be a positive approach to the subject, but it is important to analyse the *interests* of these projects. In research conducted by Suvi Keskinen, culturalist explanations to violence are common among professionals working

³⁰⁶ United States Department of State 2012a, p. 15.

³⁰⁷ STM 2010:5, pp. 27–30.

³⁰⁸ An analysis of the political debate in Finland is done in Keskinen 2009c.

³⁰⁹ Sisäasiainministeriö 2013.

³¹⁰ According to official documentation. Leitzinger 2008 and 2006.

³¹¹ However, racist discourses in Finnish society are not always recognised as such. See Rastas 2009.

³¹² Keskinen 2009a. As mentioned in the introduction, the first time the issue of so-called *honour killings* was explicitly addressed in parliament was only a few weeks after the famous murder of Fadime Şahindal. KK 134/2002.

³¹³ This is e.g. done in the Action Plan 2010, as well as the report to the CEDAW Committee. See STM 2010:5, pp. 26–30 and CEDAW/C/FIN/5, pp. 25–28.

³¹⁴ See Keskinen 2009a, p. 263.

³¹⁵ Some examples that can be mentioned are the projects *KokoNainen* (the League of Human Rights) and *Hawo Tako* (the Finnish Red Cross), aimed towards preventing female genital mutilation, the activities by ETNO (the Advisory Board for Ethnic Relations) and various anti-violence projects particularly addressing immigrant families: these are e.g. *Miehen Linja*, the *Mixer*-project and the various activities by Monika Women (*MonikaNaiset*). See CEDAW/C/FIN/5, pp. 25–27. See Kostas Tassopoulos, 5 June 2013; Heidi Kontkanen, 22 February 2013; Miira Hartikainen, 7 February 2013 and Natalie Gerbert, 7 June 2013.

with gendered violence against immigrant women in Finland.³¹⁶ This is a common feature for many Nordic and western countries, linking a *particular vulnerability* with cultural features to immigrant (in particular Muslim) women, while there is a linkage between immigrant (in particular Muslim) men and perceived threats to security.³¹⁷ These explanations are strengthened by discursive reconstructions of a dichotomous division of majority/minority populations. The perceived gender equality and the ideal picture of the emancipated women of the majority often lead to stereotypical images of the western/Nordic woman as strong and powerful, while the immigrant woman is pictured as weak, vulnerable and in need of (western/Nordic) emancipation/rescue.³¹⁸ This is highly problematic; rendering the structural nature of the violence faced by the women of the majority invisible, only highlighting the structural nature of the gendered violence faced by female (immigrant) minority members.³¹⁹

4.3 Gendered Violence in Turkey

In this section, gendered violence in Turkish and Kurdish contexts is accounted for, in order to further contextualise the constructions of gendered violence found in the judgements analysed.³²⁰ The status of women in Turkey has visibly been linked with the westernisation/modernisation process of the country, starting from the 19th century period of *Tanzimat*³²¹ in the Ottoman Empire, and still continues today.³²² Republican founder Mustafa Kemal Atatürk introduced many changes during the years 1922 to 1937 in Turkey, many of them having positive aspects for women. These were reforms in education, family policy, work policy, cultural and social policy, female autonomy and societal life.³²³ The changes also involved the right to vote for women in 1934, introduced even before many European countries.³²⁴ However, it is important to point out that the status of women in the modernisation process has been criticised for focusing on the *control* of female bodies and

³¹⁶ Keskinen 2011a.

³¹⁷ Campani 2011 and Semati 2010, pp. 256–258.

³¹⁸ A/HRC/11/6/Add.5, p. 42.

³¹⁹ See Keskinen *et al* (edit) 2009 and DN Kultur: Här är sanningen i debatten om hedersvåld.. This was also discussed in my interview with Yakın Ertürk. Ertürk was particularly highlighting this problematic nature in the Netherlands and Sweden, where she had been studying the situation. Yakın Ertürk, 9 July 2013.

³²⁰ See chapter 5 *Court Context: Analysis of constructions*.

³²¹ A period referred to as the modernisation period of the Ottoman Empire.

³²² The westernisation/modernisation process has continued in phases, of which the main ones are the Kemalist modernisation process as well as the EU integration process. Çakmak and Altuntaş 2008, p. 6.

³²³ İstanbul Barosu Kadın Hakları Merkezi 2010, pp. 71–74, EGM/GPLVAW/2008/EP.13, p. 2 and Türkiye Büyük Millet Meclisi İnsan Haklarını İnceleme Komisyonu 2011, pp. 4–14.

³²⁴ İstanbul Barosu Kadın Hakları Merkezi 2010, p. 72. See also Bozkurt 2007, p. 2.

sexualities,³²⁵ not taking departure in the realities or opinions of women themselves³²⁶ and that not all females have benefited in the same way from these changes.³²⁷ On the other hand, the same arguments about controlling female bodies and sexualities can be made for the counter movements of the westernisation/modernisation process, e.g. the more radical Islamist movement.³²⁸

Gendered violence is a problem of great extent in Turkey: in particular, gendered domestic violence.³²⁹ According to the National Research on Domestic Violence against Women in Turkey performed in 2008, women who had experienced physical and/or sexual violence by their partners or former partners at least once during their lives, reported to be 42 per cent.³³⁰ In this context, it is highly important to point out that these numbers only focus on violence by husbands and partners, or former husbands and partners, which might leave out much gendered violence.³³¹ Due to this fact and to differences in notions and definitions of violence as well as research methods, it is not directly comparable with the earlier presented Finnish numbers. Similar to the Finnish context, domestic gendered violence in Turkey is perpetrated mainly by partners and former partners, but also, however less frequently reported, other members of the family.³³² The problem of gendered violence is reflected in attitudes relating to the relationship between the genders. According to the attitude survey committed by the World Values Survey Association in 2010, around 25 per cent of Turkish men responded that *it is sometimes justifiable for a man to beat his wife*.³³³

In the Turkish public discourse on gendered violence, gendered domestic violence is often referred to as a problem of rural areas and the eastern regions of Turkey, in particular the South-east.³³⁴ The numbers on gendered violence generally reported higher in the eastern

³²⁵ A phenomenon not unfamiliar to e.g. colonialist regimes, see Volpp 2000, p. 108.

³²⁶ Sirman 2003. This was also the main critique raised by the women's movement, being critical towards the State during the 1980s. Özyeğin 2009. In particular, the rights granted to women by the Kemalists aimed at breaking the links to the Ottoman Empire and to cut the connections with religious hegemony, rather than establishing actual gender equality. Ilkkaracan 2007, p. 7.

³²⁷ This is for instance the case with many women in the eastern regions, who have not benefited from the nominal legislative changes in the same way as other women might have. Belge 2008, pp. 73–74.

³²⁸ Özyeğin 2009.

³²⁹ Kocacık 2004. However, it is important to remember that gendered violence is not limited only to domestic violence. Åsa Eldén, 24 June 2013.

³³⁰ In the study, 39 per cent of women report physical violence, while 15 per cent of women report sexual violence. Turkish Prime Ministry Directorate General on the Status of Women 2009, p. 46.

³³¹ Thus, not observing the continuum of gendered violence. See Lundgren *et al* 2001 and SOU 2004:121.

³³² Turkish Prime Ministry Directorate General on the Status of Women 2009, pp. 63–69.

³³³ This expression was used in the survey. In order to keep the authenticity of the survey, it is also used in this context – despite its implicit heteronormativity. UN Women 2011, p. 32.

³³⁴ This can be seen in the National Research on Domestic Violence against Women in Turkey of 2008,

regions, this indeed calls for further investigation. However, the reported higher numbers in the East do not go unchallenged.³³⁵ The complex tension between *the West* and *the East* – interesting to observe in the Turkish context – linked to the economic and regional discrepancies in Turkey, has to be regarded in a political and historical context.³³⁶ However, the increased media reporting about gendered violence (in particular killings of women), the work by activists and organisations and also to a certain extent the authorities, all contribute to raising awareness of the universality of gendered violence.³³⁷

Estimations based on studies on gendered violence suggest that eleven million women in Turkey have suffered from physical or sexual violence at least once during their lives.³³⁸ These numbers are alarming, and the Turkish government has received attention in the international community, e.g. by the CEDAW Committee, the UN SRVAW, Human Rights Watch and Amnesty International for its insufficient measures towards combating gendered violence and meeting the needs of the victimised women.³³⁹ The problematic attitudes among the police and the judiciary were particularly brought to the attention of the international community in the landmark case *Opuz v. Turkey*,³⁴⁰ before the European Court of Human Rights in 2009, where the Turkish State was found guilty of violating the obligation to protect women from domestic violence. The case was also the first judgement of the ECtHR that considered gendered violence a form of discrimination under the ECHR.³⁴¹

Turkey signed and ratified the CEDAW in 1985.³⁴² Much like Finland, many of the

where particularly high numbers of lifetime physical and sexual violence by partners and former partners are reported in the eastern regions of Turkey (e.g. 51.1 % in South-east Anatolia and 57.1 % in North-east Anatolia, as opposed to 26.2 % in West Marmara and 38.4 % in Istanbul). Turkish Prime Ministry Directorate General on the Status of Women 2009, p. 47. The focus on the East can also be seen in academic writing and NGO work. See Se'ver 2005, Ilkcaracan and Women for Women's Human Rights 1998, Human Rights Watch 2011 and Çakmak and Altuntaş 2008.

³³⁵ Radikal: Kadınlar, töreler ve ötekiler and Altınay and Arat 2009.

³³⁶ This is shortly done in chapter 4.3.2 *Gendered Violence and Majority/Minority Positions in Turkey*.

³³⁷ The Guardian: Turkey Opens Its Eyes to Domestic Violence. This is largely a result of feminist movements' awareness-raising activities for the issue, Baytok 2012 and Tanja Völker and Martina Gaidzik, 29 January 2013. Efforts have also been made on behalf of the authorities, see T.C. Milli Eğitim Bakanlığı 2008.

³³⁸ Human Rights Watch 2011, p. 10.

³³⁹ A/HRC/4/34/Add.2, Amnesty International 2004, Human Rights Watch 2011, Özdamar 2009 and Yıldız *et al* 2010, p. 96.

³⁴⁰ Case of *Opuz v. Turkey*. Application no. 33401/02. Judgement 9 June 2009. Final 9 September 2009.

³⁴¹ Case of *Opuz v. Turkey*. The applicant (Nahide Opuz) brought the case against the Turkish State, because of the lack of sufficient intervention (despite several complaints) by the police and the prosecuting authorities in the several years of brutal domestic violence that she and her mother faced. The domestic violence also led to the death of the applicant's mother.

³⁴² Thus, the ratification was done one year before Finland. Turkey withdrew its earlier reservations to the Convention in 1999. UNTS: CEDAW Signatories and Ratifications.

changes in Turkey concerning women's rights have been made due to pressure from the international community, e.g. the CEDAW Committee, the CoE and in particular the EU.³⁴³ The CEDAW and the DEVAW have been important for the development of women's rights in Turkey.³⁴⁴ However, there are still problems concerning gender equality both in the so-called *private* and *public spheres*, e.g. the employment rate of women was only 30.9 per cent in 2012, while it was 75.0 per cent for men, however women continue to carry out a large majority of the unpaid household work.³⁴⁵

Similar to the Finnish changes in legislation and policy framework accounted for earlier, there has been a great shift in the approach towards gendered violence during the last 15 years in Turkey, mostly due to women's movements: the country has replaced many of its old, discriminatory and sexist regulations with new ones.³⁴⁶ One of the most important changes is the legislative reform of the Criminal Code in 2004,³⁴⁷ which made sexual crimes against women a crime against the *individual* and a *woman's bodily integrity*. Before the amendment, sexual crimes against women had been considered crimes against the *family* or *public morality*.³⁴⁸ Other important measures taken are e.g. the introduction of protection orders and a law on domestic violence,³⁴⁹ the legal restrictions concerning so-called virginity examinations,³⁵⁰ the important reforms of the Civil Code in 2001 as well as the Criminal Code in 2004, certain training of law enforcement personnel and the ratification of the Istanbul Convention in 2012.³⁵¹ However, there are still many drawbacks in the Turkish system for combating gendered violence. These are mainly related to problematic legal regulations,³⁵² the lack of State financial support and State initiatives,³⁵³ the attitudes and lack of knowledge of women's rights as human rights of the law enforcement agencies,³⁵⁴ insufficient shelters for victims of violence,³⁵⁵ as well as the high

³⁴³ Özdamar 2009, CoE Commissioner for Human Rights 2012b and European Commission 2013.

³⁴⁴ İstanbul Barosu Kadın Hakları Merkezi 2013, pp. 28–39.

³⁴⁵ European Commission 2013, pp. 19 and 41.

³⁴⁶ EGM/GPLVAW/2008/EP.13, p. 1.

³⁴⁷ Entering into force in 2005.

³⁴⁸ Shifting the discourse from seeing the woman as a commodity of the family or society to seeing the woman as an own legal subject and an individual, the importance of this legal amendment is major. Ertürk 2009, p. 62, Ilkcaracan 2007 and Centel (edit) 2013, p. 5.

³⁴⁹ The Law to Protect Family and Prevent Violence against Women (Law no. 6248).

³⁵⁰ Which were state-sanctioned on certain groups of women in Turkey until 1999. Özyeğin 2009, p. 111.

³⁵¹ EGM/GPLVAW/2008/EP.13, Özyeğin 2009, p. 111, CEDAW/C/TUR/4–5, Ilkcaracan 2007 and The Advocates for Human Rights: Violence against Women in Turkey.

³⁵² Such as Article 29 on *unjust provocation*, often excusing male perpetrators who have killed women. Ertürk 2009, p. 62. See chapter 5.2.4 *Essentialised/Collective Violence*.

³⁵³ United States Department of State 2012b, pp. 34–36. Tanja Völker and Martina Gaidzik, 29 January 2013.

³⁵⁴ Here, the police is often mentioned, but also the judiciary. Se'ver 2005, p. 133, Se'ver and Yurdakul 2001, p. 971 and European Commission 2012, p. 27.

threshold for reporting violence.³⁵⁶

4.3.1 Turkish Legislation

After the foundation of the Turkish Republic in 1923, the Turkish Criminal Code was adapted in 1926, largely inspired by the Italian Criminal Code of the time, adopted under Benito Mussolini.³⁵⁷ Due to the EU integration process and the pressure by civil society, major amendments were made to the Turkish Criminal Code in 2004.³⁵⁸ In this section, the investigation of Turkish legislation on gendered violence within the domestic sphere is limited to intentional homicide: in particular relating to the regulations of custom (*tr: töre*), as well as provocation. The Turkish regulations of intentional homicide is found in the Turkish Criminal Code (Law no. 5237), volume 2, chapter 2, section 1, Articles 81–83. Much like the Finnish system, there is a division of the offence into a general form, a qualified form and a privileged form. However, the privileged form is diverging much from the present Finnish regulation, building partly on the criminal law concepts of failure and negligence. Thus, it is similar to the Finnish regulation on negligent homicide (*fi: kuolemantuottamus*).³⁵⁹ Therefore, the articles of significance for this study are Articles 81 and 82: particularly Article 82. Later, also Article 29 of the Criminal Code is analysed.

Article 81 is referred to as *felonious homicide* (*tr: kasten öldürme*). In accordance with Article 81, any person who unlawfully kills a person is sentenced to life imprisonment³⁶⁰.³⁶¹ Article 82 is titled *qualified forms* (*tr: nitelikli hâller*) and regulates the aggravated forms of the homicide. According to the article, the homicide is perpetrated in aggravating circumstances, if it is *premeditated, ferociously or brutally perpetrated, perpetrated with the use of nuclear, biological or chemical weapons which cause explosion or result in fire, flood, destruction, sinking etc., perpetrated against one's antecedents or descendants, spouse, sister or brother, perpetrated against a child or a person unable of*

³⁵⁵ Altınay and Arat 2009, p. 61, Ilkcaracan and Women for Women's Human Rights 1998, p. 75 and Baytok 2012, p. 52.

³⁵⁶ Human Rights Watch 2011, pp. 25–30.

³⁵⁷ Adopted when Mussolini was the President of the Council of Ministers. EGM/GPLVAW/2008/EP.13, p. 2. See also Se'ver and Yurdakul 2001, p. 967.

³⁵⁸ EGM/GPLVAW/2008/EP.13, pp. 7–10.

³⁵⁹ Regulated in the Finnish Criminal Code (39/1889), chapter 21 sections 8–9.

³⁶⁰ Life imprisonment in the Turkish Criminal Code is regulated as a sentence of imprisonment that continues until the death of the convict. This is regulated in the Turkish Criminal Code, volume 1, chapter 3, section 1, Article 48.

³⁶¹ Independent translation from Turkish by the author: "bir insanı kasten öldüren kişi, müebbet hapis cezası ile cezalandırılır".

protecting her-/himself because of physical or mental disability, perpetrated against a pregnant woman, perpetrated by virtue of public office, perpetrated with the intention of concealing or facilitating another offence, or destroying evidence, or perpetrated due to blood feud or custom. The sentence prescribed for the offence is heavy life imprisonment^{362 363}.

In this study, I intend to focus on the last of the aggravating circumstances described: i.e. *custom (töre)*. This concept is particularly interesting, due to the fact that it has – since its introduction in 2004 – mainly been used in order to address *certain homicides*. In western countries and media, many of these cases are/would be referred to as so-called *honour killings*.³⁶⁴ However, as dealt with earlier, this distinction is different in Turkey, since *honour* is here mainly addressed in cases that in many western countries are/would be referred to as so-called *passion killings*.³⁶⁵ Concerning a so-called *custom killing (töre)*, as mentioned above, the recognising factor is traditionally considered to be a family council and a *collective decision* to kill the victim, who is suspected to have broken societal norms.³⁶⁶ The Turkish Supreme Court of Appeals often describe these types of collective decisions as requiring a certain form of society, characterised as *collective*³⁶⁷, often referred to as *feudal*.³⁶⁸ The Supreme Court has repeatedly geographically placed these crimes in the eastern and south-eastern parts of Turkey.³⁶⁹ Regarding criminal liability, all the people involved in the decision-making process can be held accountable for the crime of so-called *custom killing*.³⁷⁰ However, during recent years, the collective decision is no longer regarded *necessary* in order to classify a killing as one of custom, somewhat undermining

³⁶² Heavy life imprisonment in the Turkish Criminal Code is regulated as a sentence of imprisonment that continues until the death of the convict, enforced under strict security measures. This is regulated in the Turkish Criminal Code, volume 1, chapter 3, section 1, Article 47.

³⁶³ Independent translation from Turkish by the author, inspired by the translation on Legislationonline.org: "Kasten öldürme suçunun; a) Tasarlayarak, b) Canavarca hisle veya eziyet çektirerek, c) Yangın, su baskını, tahrip, batırma veya bombalama ya da nükleer, biyolojik veya kimyasal silâh kullanmak suretiyle, d) Üstsoy veya altsoydan birine ya da eş veya kardeşe karşı, e) Çocuğa ya da beden veya ruh bakımından kendisini savunamayacak durumda bulunan kişiye karşı, f) Gebe olduğu bilinen kadına karşı, g) Kişinin yerine getirdiği kamu görevi nedeniyle, h) Bir suçu gizlemek, delillerini ortadan kaldırmak veya işlenmesini kolaylaştırmak amacıyla, i) Kan gütme saikiyle, j) Töre saikiyle, İşlenmesi hâlinde, kişi ağırlaştırılmış müebbet hapis cezası ile cezalandırılır". Legislationonline.org: Criminal Code, Law no. 5237.

³⁶⁴ See chapter 3.1 *The Collective Violence: So-called killings of honour or custom*.

³⁶⁵ However, in eastern Turkey, this distinction between custom and other homicides of women is not made in the same way. Kardam (edit) 2007, p. 62

³⁶⁶ Özcan 2013, p. 242. See also KA-MER 2007.

³⁶⁷ Bayr 2013, pp. 138–139.

³⁶⁸ Pervizat 2006, pp. 297–299.

³⁶⁹ Bayr 2013, pp. 138–139.

³⁷⁰ Özcan 2013, pp. 248–249 and 256–258.

the former line of the Supreme Court.³⁷¹

In the Turkish Criminal Code, volume 1, chapter 2, section 2, Article 29, unjust provocation (*tr: haksız tahrik*) is regulated. Unjust provocation is considered to exist in cases where the perpetrator acts out of *anger or asperity caused by an unjust act*³⁷². In these cases, the perpetrator is given a reduced sentence.³⁷³ There is a tendency *in practice*³⁷⁴ among the perpetrators of domestic gendered violence (in particular *killings of women*) to rely on the legal strategy of unjust provocation for potentially reducing the sentence.³⁷⁵

There is a certain similarity between the Turkish and Finnish regulations of homicide. A homicide perceived as *premeditated* by the court, e.g. decided by a family council,³⁷⁶ is considered as *aggravated* and followed by a heavier sentence. However, a homicide perceived to be a spontaneous act of rage can in certain cases be considered by the court as extenuated and, accordingly, reduce the sentence. Developing the arguments laid down in previous chapters, the so-called *collective gendered violence* typically receives a more severe treatment by the court, while the so-called *individual gendered violence* receives a milder one. Thus, the court's *perception of* and *interest in* the legal facts of the individual case are crucial for the treatment of the case in court, and ultimately for the judgement. In chapter five, this argumentation is further developed by investigating the construction of legal facts more thoroughly.

³⁷¹ As demonstrated in The Supreme Court of Appeals of Turkey, Decision no. 2011/120, File no. 2011/1-138, Judgement given 14 June 2011 and Habertürk: Töre mi, namus mu? This change is largely a consequence of feminist critique against the difference between so-called *custom* and so-called *honour*. Sirman 2011, p. 1.

³⁷² Independent translation from Turkish by the author, inspired by the translation on Legislationonline.org: “haksız bir fiilin meydana getirdiği hiddet veya şiddetli elemin etkisi altında suç işleyen kimseye”. Legislationonline.org: Criminal Code, Law no. 5237.

³⁷³ Instead of heavy life imprisonment, the perpetrator is sentenced to imprisonment of 18–24 years. Instead of life imprisonment, the perpetrator is sentenced to imprisonment of 12–18 years. There are also other possibilities to reduce the sentence for the perpetrator, e.g. based on good behaviour. The wide possibilities to reduce the sentence given to the judiciary have been criticised, e.g. by feminist movements. See Se'ver 2005, p. 133.

³⁷⁴ However, in the preparatory works it is highlighted that Article 29 should not be applied in order to reduce the sentence of a brother or father, who kills a woman who was sexually abused. CezaKanunu.net: TCK Madde 29.

³⁷⁵ See Se'ver and Yurdakul 2001, pp. 981–984. It was also discussed in my interview with Tanja Völker and Martina Gaidzik. Tanja Völker and Martina Gaidzik, 29 January 2013. This is, however, not unique for Turkey. These strategies also exist in the Finnish legal context, in particular with references to *family dynamics* within domestic violence. See Ruuskanen 2005.

³⁷⁶ Arto Karalahti highlights that these forms of homicide are indeed regarded as murders, due to the premeditated nature of the crime. Karalahti 2008, p. 23.

4.3.2 Gendered Violence and Majority/Minority Positions in Turkey

The East-West tension in Turkey finds its explanation in Turkish history. In this section, I account for the main features of minority and majority positions in Turkey, ultimately affecting societal creations of gendered violence. The Turkish Republic was established 1923 on the principles of Turkish nationalism and Kemalism, wanting to cut the bonds from the old, religious Ottoman Empire.³⁷⁷ In the modernisation process during the 20th century, political dissidents, religious (Islamic) movements, ethnic and cultural minorities (e.g. the Kurdish), as well as intellectuals on the left and right, had little to say.³⁷⁸

The Kurdish people – the largest minority in Turkey, forming approximately 20 per cent of the population (even though no statistics are kept by the Turkish State)³⁷⁹ – are traditionally and particularly settled in the eastern parts of the country.³⁸⁰ Building on a national ideology regarding minorities as *enemies within*, the foundational Lausanne Treaty³⁸¹ only recognises *non-Moslem* minorities, i.e. not the Kurdish people.³⁸² Still today, the only language mentioned in the Turkish Constitution is Turkish.³⁸³ Throughout Turkish history, in particular during the 1980s, the Turkish State has been guilty of human rights violations against the Kurds,³⁸⁴ and the situation of the Kurds has gained international attention.³⁸⁵ However, some steps towards democratisation have been taken. A good example of this is the recent democratisation package, launched by the ruling AKP government, opening up possibilities for some reforms regarding Kurdish language, e.g. in the field of education.³⁸⁶

The East and the Kurds are often negatively portrayed as backward, uneducated and rural, as opposite to the educated, modern people in western Turkey.³⁸⁷ *Culturalist* and

³⁷⁷ Koğacioğlu 2004, pp. 126–127 and Ergil 2000, pp. 123–127.

³⁷⁸ Ergil 2000, p. 123.

³⁷⁹ Bayr 2013, p. 116, Yıldız *et al* 2010, p. 15, United States Department of State 2012b and Ergil 2000, p. 125.

³⁸⁰ However, they have also moved to other parts of Turkey due to forced migration (emptying of villages) or economic reasons. Bayr 2013, p. 117. However, the eastern parts of Turkey are still largely inhabited by Kurds, often manifested in discourses of alterity in Turkey. See Koğacioğlu 2011.

³⁸¹ An international treaty founding the Republic of Turkey.

³⁸² This is done in Article 38, paragraph 3 of the Lausanne Treaty.

³⁸³ Article 3, paragraph 1 of the Constitution of the Republic of Turkey (Law no. 2709).

³⁸⁴ This was after the military coup. Koğacioğlu 2011, pp. 179–181. See also Çakmak and Altuntaş 2008, p. 8.

³⁸⁵ See CoE Commissioner of Human Rights 2012b and European Commission 2013 and 2012. On the minority politics of the Turkish Republic, see Belge 2008, pp. 98–156.

³⁸⁶ The democratisation package was launched by the Turkish government on 30 September 2013. European Commission 2013, p. 6.

³⁸⁷ This discourse is particularly visible e.g. in Turkish TV series. This was discussed during my interview with Nükhet Sirman. Sirman highlighted the fact that the Turks mock the Kurds and the people in the eastern settlements of Turkey in the same way that they experience them being mocked by the West. Nükhet Sirman, 11 July 2013.

particularist explanations of some forms of gendered violence are used by NGOs, academics and researchers for the violence faced by women in the eastern regions of Turkey.³⁸⁸ The phenomenon has been well described by lawyer Türkan Sancan, as Turkey simply imitating the West, i.e. looking to the East in its search for so-called *honour killings*.³⁸⁹ The regional discrepancies are particularly enforced by government policy and inequalities in investments, development, education and awareness of rights.³⁹⁰ The income levels in the eastern regions of Turkey are comparable to the least developed countries in the world, while income levels in western Turkey are comparable to income levels in EU countries.³⁹¹ Insufficient language skills; illiteracy among women; high fertility rates resulting from lack of sexual and reproductive autonomy; and the practice of unofficial (religious) marriages, not granting women any of the rights of legally married women, generally render women in the East vulnerable to domestic violence.³⁹² Furthermore, the armed conflict between Kurdish guerrilla forces and Turkish military, going on in eastern Turkey over the last 30 years, is particularly affecting women.³⁹³ However, these facts are often left out of the public discussions and media reporting on gendered violence in the East.³⁹⁴

Although many minorities exist in Turkey, I have chosen particularly to focus on the Kurdish minority, due to its particularly vulnerable situation.³⁹⁵ The dichotomous construction of west and east in Turkey is, however, not limited to Turkish-Kurdish settlements.³⁹⁶ In focusing on minority groups, this study aims to highlight structural patterns of gendered violence, and stress that *stigmatising minority groups* is also *harmful for minority women*. Intersectional perspectives are needed in order to recognise the multiple discrimination – and the following vulnerability – faced by minority women.³⁹⁷

³⁸⁸ See Se'ver and Yurdakul 2001, Kardam (edit) 2007, Se'ver 2005, Ilkcaracan and Women for Women's Human Rights 1998, Human Rights Watch 2011, Çakmak and Altuntaş 2008 and Turkish Prime Ministry Directorate General on the Status of Women 2009.

³⁸⁹ Radikal: Kadınlar, töreler ve ötekiler.

³⁹⁰ Altınay and Arat 2009, particularly pp. 58 and 122–123.

³⁹¹ Yıldız *et al* 2010, p. 23.

³⁹² This is supported by more independent surveys (not State funded) that take other factors, such as economic discrepancies, into consideration. See Altınay and Arat 2009, Yıldız *et al* 2010 and Ilkcaracan and Women for Women's Human Rights 1998, p. 66.

³⁹³ Koğacioğlu 2004, p. 130 and Pervizat 2011, p. 145.

³⁹⁴ Thus, the Kurdish question cannot be understood in isolation. Ergil 2000, p. 133. See Koğacioğlu 2004 and Koğacioğlu 2011.

³⁹⁵ Belge 2008, pp. 98–156.

³⁹⁶ It involves multiple elements, such as secularity *v.* religiosity, “enlightened” *v.* uneducated, as well as urban *v.* rural settlements. See Altınay and Arat 2009, in particular pp. 22–26.

³⁹⁷ This is recognised e.g. by Härkönen in her observations on sexual violence in Turkey. Härkönen 2004.

*The victim was judged and became the prime suspect,
as if she was not constantly battered by her husband,
moved finally to the shelter,
picked up by her husband and returned home
and killed the same day.*

Sociologist Cemre Baytok³⁹⁸

³⁹⁸ Baytok 2012, p. 2.

5 Court Context: Analysis of constructions

In this chapter, court judgements are analysed using discourse analysis. The judgements chosen for analysis are mainly cases of gendered violence dealt with by the Supreme Courts of Turkey and Finland, which means that they can be considered to be of value for the national doctrines. However, some of the Finnish cases are not the rulings of the Finnish Supreme Court: instead, these cases have been chosen because of intense media reporting, mainly because they were committed by (Muslim) immigrant perpetrators. Some of the Turkish cases have also been dealt with in this way by the media.³⁹⁹ In every case, the ruling of the *highest legal instance* is particularly considered, but the arguments of lower instances also provide for useful objects of analysis.

In the analysis of the cases, it is important to keep in mind that the position of the Supreme Court of Appeals in Turkey is different from the Finnish Supreme Court, since it issues many more annual decisions than the Finnish.⁴⁰⁰ A common criterion of the cases chosen is that they all address recent cases of gendered violence: a majority of the cases having taken place after 2000, and all of the Turkish cases after the introduction of the new Criminal Code in 2004. Another criterion is that the cases involve a victimised woman⁴⁰¹ who was killed by her partner, former partner, family or extended family. In all cases, the victim was an adult, apart from one, in which the only victim was a five-year-old girl.⁴⁰² Furthermore, many of the cases have in common that the narrative motive of the perpetrators has been that of so-called *honour* and/or *passion*. In all cases, the perpetrator was male, and in most cases he was the partner or the former partner of the woman killed. In order not to highlight the identity of the women killed or the perpetrators – but instead to highlight the *systematic nature* of gendered violence – the references in the cases are not made to the names of the people involved, but to their gender.

³⁹⁹ For some of the media reporting on the cases, see e.g. Helsingin Sanomat: Helsingin poliisi piilottanut tyttöjä kunniaväkivallan uhan takia, Yle Uutiset: Pakistanilaisnaisen surma käräjillä, Ilta-Sanomat: Eroaikeet pakistanilaisnaisen surman takana – syyttäjä: rituaaliteurastus, Sondakika haberleri: Cinayet haberleri, and Milliyet: Töre cinayeti.

⁴⁰⁰ Resulting in the threshold of appealing being significantly lower. It is common that cases are sent back for revision to lower instances. Ceren Belge, 30 July 2013. See also Turkish Ministry of Justice 2013.

⁴⁰¹ With woman, I primarily refer to adult women: however, in two of the cases, also female children were killed. It is important to stress that gendered violence also victimises girls. That being said, my main focus in the discourse analysis is on adult women.

⁴⁰² This case is particularly interesting, since she was killed *instead* of her mother.

5.1 Facts of the Cases

Here, only the most pertinent legal facts of the cases are accounted for. The analysis does not focus on the outcome of the judgements, as much as on *the creation of legal facts* and the *argumentation* provided for in the judgements. However, short descriptions of the cases can be found in the annex. With case code F, I refer to Finnish judgements, and with case code T, I refer to Turkish judgements. In cases F1–F3, the victim and the perpetrator were members of the Finnish majority population, while in cases F4–F6, the victim and the perpetrator were members of the immigrant minority population. In the Turkish judgements, it is likely and relatively evident that some of the perpetrators and/or the victims were of Kurdish minority population. However, this is difficult to establish with certainty, due to the policies of the Turkish State, silencing the Kurdish identity as separate from Turkish.⁴⁰³ However, this is not to say that Turkish courts avoid essentialising discourses.⁴⁰⁴ For this reason, and for the risk of creating own discourses of alterity, I have chosen not to include minority and/or majority population membership in the case codification. Furthermore, the *universal nature* of gendered violence is highlighted.

Case Code	Victim	Perpetrator	Relationship	How the Woman Was Killed	Earlier Violence or Threats
F1	Woman	Man	Marriage	Gunshots, hit twelve times by different bullets	Yes
F2	Woman and her three children	Man	Marriage	Stabbed 39 times with knife (the children killed in the same way)	Not specified in the judgement
F3	Girl child (killed because her mother escaped)	Man	Partner's child – mother's partner	Strangled, stabbed with knife and throat cut	Not specified in the judgement
F4	Woman	Man	Marriage	Stabbed 28 times with knife	Yes

⁴⁰³ See Bayr 2013. See chapters 4.3.2 *Gendered Violence and Majority/Minority Positions in Turkey* and 5.2.4 *Essentialised/Collective Violence*.

⁴⁰⁴ Dealt with in chapter 5.2.4 *Essentialised/Collective Violence*.

F5	Woman	Man	Marriage	Stabbed 17 times with knife	Not specified in the judgement
F6	Woman	Man	Former marriage	Throat cut	Not specified in the judgement
T1	Woman	Man	Partner, co-habitant	Stabbed 18 times with knife, salt put into vagina	Not specified in the judgement
T2	Woman	Man	Former marriage	Gunshots, hit five times by different bullets	Yes
T3	Woman	Man	Siblings	Stabbed 9 times with knife	Not specified in the judgement
T4	Woman	Man	Marriage	Gunshots, not mentioned how many times	Not specified in the judgement
T5	Woman	Man	Marriage	Gunshot, shot to the head with a close-range shot	Yes
T6	Woman	Man	Separated and recently divorced	Gunshot, hit nine times with different bullets	Yes

5.2 Findings: Discursive similarities and differences

In this section, I account for the different discourses found in the court cases. The discourse analysis primarily focuses on the creation of *facts* in the court judgements, according to which the legal decision is made. The reason for the use of discourse analysis is to create means of *demonstration* of legal reasoning and use of legal language. The main discourses that I have found in the different court cases are: *male violence*, *female behaviour*, *normalised/individual violence* and *essentialised/collective violence*. In most of the court cases, I have not found one, but multiple discourses. However, one or two of the different discourses were often dominant in the individual court cases: depending on various factors. The discourses can be coupled into *male violence* – *female behaviour* and *normalised/individual violence* – *essentialised/collective violence*, one of the discourses in the pair often dominating over the other. However, it is important to keep in mind that the

coupled discourses should not be seen as exclusive, as both possibly appear in the same cases, sometimes even in the same sentences.⁴⁰⁵ Hybrid versions of the different discourses also exist in some cases: e.g. can a case of male violence also be described as essentialised/collective violence, as a reaction to female behaviour. Thus, the various relationships between the discourses are complex.⁴⁰⁶

The discourse analysis used challenges the foundations of legal assessment – relevant for the legal analysis of the cases. The main focus of critique is *essentialising strategies* and *alterity* in the legal argumentation on *intersectional grounds*: with a focus on gender, ethnicity, culture and/or race. In a comparative study, this form of research methodology and research interest draws particular attention to the largely universal existence of the discourses, not so much depending on formal differences in legislation or legal culture. It is important to highlight that analyses with other focus interests than mine might find different discourses and interconnections than I have, which further stresses the methodological versatility of discourse analysis. This fact also highlights the linkage and interdependency between methodology and theory, as described earlier.⁴⁰⁷

5.2.1 Male Violence

The discourse referred to as *male violence* describes the violence perpetrated by men as the main focus of attention in the judgements. This means that the manifestations of the discourse are various descriptions of violence, with a focus on the violence perpetrated by the male perpetrator, rather than the behaviour of the victimised woman. One point worth observing here is that this discourse focuses on the *violence* as an *illegal act*, rather than the *perpetrator* as a *person*. Here, the perpetrator's violence is described as the main fact, upon which the legal judgement is made. There are also value judgements, interlinked with the descriptions of violence: the violence can be described as *with* or *without* context. I have recognised these discourses as *normalised/individual behaviour* and *essentialised/collective behaviour*.⁴⁰⁸ In the criminal legal doctrines of both Turkey and Finland, the discourse of *male violence* is often officially recognised as *the only discourse*

⁴⁰⁵ However, this is truer for the first two discourses than the last two.

⁴⁰⁶ This is dealt with further in chapter 5.3 *Interconnections: The ultimate victimisation of minority women*.

⁴⁰⁷ See chapter 2 *Theoretical and Methodological Framework: A critical perspective on law*.

⁴⁰⁸ See chapters 5.2.3 *Normalised/Individual Violence* and 5.2.4 *Essentialised/collective violence*.

given value within the legal judgement.⁴⁰⁹ However, as mentioned earlier, other discourses can also be recognised in the analysed judgements.

In all the judgements, the *male violence* discourse is evident. In some, it is the clearly dominating discourse. In general, the discourse of *male violence* is *more dominating* in the reasoning of the Finnish courts than in the arguments of the Turkish judgements. In the analysed judgements, Finnish courts generally focus less on the behaviour of the female victim than Turkish courts. This might be the result of various factors: e.g. differences in legislation, assemblies of judges, the facts of the cases, or legal context. However, it is important to keep in mind that only a few cases are analysed, and that they do not necessarily represent the multiplicity of the national legal culture, even though they might represent important parts of it. Furthermore, conclusions that do not take into consideration the context of the individual cases should not be made. The cases where the discourse *male violence* is most clearly dominating are cases F2, F3, F4, F5, T5 and T6. In general, the courts have seemed less hesitant to regard male perpetrators guilty of a qualified form of homicide if the *dominant discourse* has been male violence rather than female behaviour. Thus, the dominating discourse is linked with the outcome of the judgement.⁴¹⁰ The following demonstrates some examples of the discourse *male violence*.

In case F2, a good example is found in the arguments of the Court of First Instance, written in the judgement of the Supreme Court: [...] *The four cases of manslaughter, directed towards A's family members, perpetrated through stabbing or stinging with a knife, in a fairly aggressive state of mind, can be considered to be perpetrated in a particularly brutal or cruel manner. The cases can also be considered to be aggravated when addressed as a whole, when regarding the killing of the youngest child E, who was unable of any self-defence, and in particular when taking into consideration that the legal, biological, social and moral duty of the father was to act as a protector and guardian of the child.*⁴¹¹

⁴⁰⁹ This has its roots in the dominant legal discourses on perceived objectivity. See Chomsky 2003, Gunnarsson and Svensson 2009 and Bladini 2013, pp. 38–43.

⁴¹⁰ This also supports the theory of dominating discourses in Foucauldian discourse theory, and their effects on the (re)creation of knowledge and power. About the application of Foucauldian discursive power relations and the notions of the individual, see Koğacıoğlu 2004, p. 120.

⁴¹¹ Independent translation from Finnish by the author: “Kaikki neljä A:n perheenjäseniin kohdistunutta tappoa, jotka oli tehty puukolla iskemällä tai pistämällä ilmeisesti hyvin aggressiivisessa mielentilassa, oli katsottava tehdyksi erityisen raa'alla ja julmalla tavalla ja kaikkia niitä oli myös kokonaisuutena arvostellen pidettävä törkeinä vastarintaan kykenemättömän nuorimman lapsen E:kin kohdalla erityisesti siitä syystä, että isän oikeudellinen, biologinen, sosiaalinen ja moraalinen velvollisuus oli toimia lastensa suojelijana ja varjelijana.” KKO:2000:3, Kuopion käräjäoikeus R 97/613, Judgement given 12 December 1997, p. 15.

In the case described, the role and responsibilities of the male perpetrator as a *father* is highlighted, further enhancing the serious nature of the violence perpetrated. The male violence is not only described as the physical act of stabbing his child, but also of the psychological violence enacted through the failure of performing his *duties* as a father. The violence is not merely described as violence towards the individual child, but the words *legal*, *social* and *moral* rather refer to the violence as having societal and collective implications: as if the crime was also perpetrated against society. Thus, the *child's life* and *safety* are highlighted as *societal, legal interests*.⁴¹² However, it is relevant to note that the stabbing of the *woman* does not involve the same implications: it seems that the *legal*, *social* and *moral duties* of the male perpetrator are not given the same value in this case.

In judgement F3, one example of the discourse is expressed in the legal argumentation of the Finnish Supreme Court: *Before the killing, A was assaulting B by strangling her, which woke up her daughter C. A was trying to kill B while C was present. He also strangled C, who was crying out of fear. When the mother escaped from the island by swimming, five-year-old C was left helpless and defenceless alone with A. In these circumstances, A repeatedly strangled C, and caused two stab wounds, on her neck and her right jawline, and a 7.5 cm long horizontal cut on the front side of the throat, breaking the oesophagus and the trachea, and cutting the cervical vein and the left and the inner carotid arteries. The main cause of death was the wide cut of the throat. The Supreme Court regards the killing to be perpetrated in a particularly brutal manner. The fact that the act is directed towards a defenceless small child makes the act aggravated, when addressed as a whole.*⁴¹³

In the description of the violence by the male perpetrator, the physical and mental violence is highlighted by the situation in which the perpetrator and the victim were. Thus, in order to get a full picture of the violence perpetrated, the Supreme Court took the *context* of the crime into consideration. In the argumentation of the Supreme Court, the blame on the

⁴¹² Gaining societal protection as an interest of legal protection. On the legal protection of certain interests, see Tolvanen 2005.

⁴¹³ Independent translation from Finnish by the author: "Ennen surmaa A on kuristamalla pahoinpidellyt B:tä, joka tästä pelästyneenä on herättänyt tyttärensä C:n. A on C:n ollessa läsnä puukoniskulla yrittänyt tappaa B:n. Hän on kuristanut myös pelosta itkevää C:tä kurkusta. Äidin paettua uimalla saaresta, viisivuotias C on jäänyt avuttomana ja puolustuskyvyttömänä yksin A:n kanssa. Näissä olosuhteissa A on toistamiseen kuristanut C:tä sekä aiheuttanut hänelle puukolla niskaan ja oikeaan leukakulmaan kaksi pistohaavaa ja kaulan etupuolelle poikittaissuuntaisen 7,5 senttimetrin pituisen viiltohaavan, joka oli katkaissut ruokatorven ja henkitorven ja leikannut kaulalaskimon haaroja ja vasemmanpuolisen yhteisen kaulavaltimon ja sisemmän kaulavaltimon. Peruskuolinsyynä on ollut laaja kaulan viiltohaava. Korkein oikeus katsoo, että tappo on tehty erityisen raa'alla tavalla ja että se kohdistuessaan kerrotuin tavoin puolustuskyvyttömään pikkulapseen on myös kokonaisuutena arvostellen törkeä." KKO:2000:29, the Supreme Court, Judgement given 1 March 2000, pp. 2–3.

perpetrator is further enhanced by the relationship between the perpetrator and the victim, the victim being described as a small child, who was *defenceless* and *scared*. The *male violence* discourse is highlighted, since the physical violence perpetrated gains a stronger focus because of the perceived innocence of the victim. The child victim can, to a certain extent, be described as an *ideal victim*, according to the theory of sociologist and criminologist Nils Christie: the violence being more easily distinguished if the victim can be recognised as an ideal victim.⁴¹⁴ In this regard, it is relevant to note that the violent abuse of the mother is *not* described in the same manner: the description is rather used as “background information” to the killing of the female child.

In case F4, an example of the discourse is expressed in the following way by the Court of First Instance: *G killed A with 28 stab wounds, mainly on the upper body. G directed killing blows towards A, who died as a result of the wounds she sustained half an hour after the stabbing. According to the witness E, the stabbing lasted around five minutes. G continued the stabbing until the blade of the knife broke. G stabbed the victim with both of his hands holding the knife, and with great effort: the stabbing movement departing from the top of his head. The act can be considered as particularly cruel and brutal, regardless of when A lost her consciousness. The act can also be regarded as aggravated when addressed as a whole, in particular concerning the determination and the resiliency of the killer, when killing A.*⁴¹⁵

A similar description of the violence of the male perpetrator can be found in case F5: *Taking into consideration the number of stab wounds, and regardless of when the killing stab wounds were made or when the victim lost her consciousness, the killing can be considered to be perpetrated in a particularly brutal and cruel manner.*⁴¹⁶ In the

⁴¹⁴ Christie 1986. It is likely that the victim being a child affected the assessment of the act as being aggravated when addressed as a whole. Lappi-Seppälä *et al* 2009, pp. 491–492, Matikkala 2000, pp. 47–48 and the comment by Matti Tolvanen in Tolvanen 2000.

⁴¹⁵ Independent translation from Finnish by the author: “G on surmannut A:n 28:lla pääosin ylävartaloon osuneella puukotiskulla. G on kohdistanut A:han kuolettavia iskuja, joista saamiinsa vammoihin A on kuollut puolen tunnin kuluttua puukotuksesta. Todistajana kuullun E:n mukaan puukotus oli kestänyt viitisen minuuttia. G on jatkanut puukolla lyömistä, kunnes puukon terä oli katkennut. G on lyönyt puukolla pitäen puukosta molemmilla käsillä ja lyöntien lähtiessä korkealta pään päältä. Tekoa on pidettävä erityisen julmana ja raakana, riippumatta siitä, missä vaiheessa A on menettänyt tajuntansa. Tekoa on myös kokonaisuutena arvioiden pidettävä törkeänä, ottaen huomioon teon osoittama surmaajan päättäväisyys ja sitkeä pyrkimys A:n surmaamiseen.” Helsingin käräjäoikeus, Judgement no. 06/10736, Record no. R 06/10736, Judgement given 27 October 2006, p. 5.

⁴¹⁶ Independent translation from Finnish by the author: “Iskujen lukumäärä huomioon ottaen ja riippumatta siitä, missä vaiheessa kuolettavat tai tajunnan menettämiseen johtuvat iskut ovat tapahtuneet on surmaamista pidettävä erityisen raa'alla ja julmalla tavalla tehtynä.” Helsingin käräjäoikeus, Judgement no. 06/1871, Record no. R 05/8762, Judgement given 22 February 2006, p. 3.

judgements described here [F4 and F5], the violence perpetrated by the male perpetrator is brought forward in multiple ways: the argumentation does not account for the acts of the female victim at all, but focuses on the acts of the male perpetrator. It repeatedly uses the word *stab* or *stabbing*⁴¹⁷, the duration of the action is stressed⁴¹⁸, and the amounts of stab wounds are given particular value in the argumentation. The judgements highlight that the condition the victim was in when she lost her consciousness is irrelevant for the aggravated nature of the crime. Thus, both cases are highlighting the male violence as more stripped of context than the two earlier descriptions in cases F2 and F3.

In judgement T5, one example of the discourse is that [...] *the defendant was living in his house, with his official wife and children, when he took another woman home from an extramarital affair, to live with them in order to lead an immoral life. He also had an extramarital affair with the sister of this woman, which was known by everyone. When the defendant wanted to divorce his wife, he tried to violently force her to approve of the divorce, and later referred to the legal grounds of unjust provocation.*⁴¹⁹

In this example, it is crucial that the act of killing [the violent forcing of his wife] is *not* described as the main violence perpetrated. The violence highlighted in this case is mainly the *mental violence* of forcing his wife to live together with his mistress. The physical violence is barely visible in the argumentation of the court: what is highlighted is rather the *immorality* of the man. Thus, there is an evident social aspect in the legal creation of the case: it seems as if the fact that the male perpetrator was living together with his wife and his mistress creates a greater *societal blame* than him killing his wife.

In case T6, an example of the discourse can be found in the following argumentation by the Supreme Court: *In this case, the defendant had decided to kill his wife when he heard about the divorce judgement. The defendant had not wanted a divorce, and the proceeding culminated in the killing of his wife. During the 12-day period, from the decision to the time of the crime, the defendant did not give up his decision and kept a mental calm, in order to carry out the decision to kill his wife. The choice of means of transportation (taxi)*

⁴¹⁷ This is particularly true for case F4.

⁴¹⁸ *Ibid.*

⁴¹⁹ Independent translation from Turkish by the author: "Sanığın, resmi eşi ve çocuklarıyla birlikte yaşadığı evine evlilik dışı ilişki yaşadığı kadını getirerek ahlak dışı davranışla metres hayatı yaşaması, ayrıca metresinin kız kardeşiyle herkesçe bilinebilecek şekilde ilişki kurduğunun duyulup ifade edilmesi, eşi maktuleye karşı şiddet kullanarak onu boşanmaya zorlaması ve dolayısıyla kendisinin haksız zeminde bulunması karşısında." The Supreme Court of Appeals of Turkey, Decision no. 2012/1724, File no. 2010/3234, Judgement given 13 March 2012.

*can be considered to indicate that the act was planned, making it easier for the defendant to escape from the scene of the crime. Approaching his wife as if his intention was to talk, and shooting her with seven shots, mainly from the back, suggests that the act was premeditated.*⁴²⁰

In the argumentation described, the focus is on the actions of the male perpetrator. In fact, the behaviour of the female victim is not at all considered in the judgement, making the male violence more visible. The case also, unlike the previous case, focuses on the physical violence perpetrated: accounting for the number of shots, as well as for how they were executed. Again, it is significant to notice that the dominance of the *male violence* discourse – and the absence *female behaviour* discourse – seems to suggest a higher likelihood for the act of killing to be considered as *premeditated* by the court.

5.2.2 Female Behaviour

The discourse that I have chosen to refer to as *female behaviour* describes the behaviour of the female victims as the main focus of attention in the legal judgements. The different expressions of the discourse highlight the blame of the woman in various ways, or the interdependent or reactive nature of the violence perpetrated.⁴²¹ Hence, the discourse is often used in order to *explain*, *excuse* and *justify* the violence perpetrated by the man in the cases. However, even if the violence is not justified by the court as a matter of sentences or classification of crimes, the occurrence of the *female behaviour* discourse contributes to taking the focus away from the violence perpetrated, and focuses instead on the behaviour of the victim. This discourse domination affects the way in which the facts of the case are created in the courtroom. Here, the separation between *actions* and *person* is not as clear as

⁴²⁰ Independent translation from Turkish by the author: "Şu halde; sanığın, öldürme olayından 12 gün önce aleyhine sonuçlanan boşanma davası ve öncesinde gelişen olaylar nedeniyle, boşanma davasının istemediği şekilde neticelenmesinin hemen ardından eşini öldürme kararını verdiği, öldürme kararından sonra suç tarihine kadar geçen 12 günlük sürede ulaştığı ruhi sükunete rağmen öldürme kararından vazgeçmediği, kararını gerçekleştirmek amacıyla olay sonrasında rahatlıkla kaçabilmek için olay yerine geldiği ticari taksiyi olay yerinin hemen yakınında beklettiği, konuşmak bahanesiyle yaklaştığı ve o sırada evinin bahçesinde temizlik yapmakta olan maktûleye tamamı arkadan olmak üzere, ensesine isabet edecek şekilde 7 el ateş ederek eylemini gerçekleştirdiği anlaşılmakla; öldürme eyleminin tasarlayarak gerçekleştirildiğinin kabulünde zorunluluk bulunmaktadır." The Supreme Court of Appeals of Turkey, Decision no. 2009/290, File no. 2009/1-200, Judgement given 15 December 2009.

⁴²¹ Minna Ruuskanen has also addressed this issue, highlighting that a discourse taking the behaviour of the woman into consideration is often used in cases where women are being abused and battered by their partners, in order to explain the violence. Ruuskanen 2005. Similar issues have also been addressed by Helena Jokila, focusing on the argumentation of the Finnish courts in cases concerning sexual violence. Jokila 2010. Another study focusing on different discourses can be considered to be the study on intimate partner violence by Johanna Niemi. See Niemi-Kiesiläinen 2004, in particular pp. 66–69.

it is in the discourse of *male violence*. The discourse of *female behaviour* tends to focus more on the *person* of the victim than the *male violence* discourse does. In the *female behaviour* discourse, the violence perpetrated by the man becomes a *consequence* of the behaviour of the woman: rendering the violence of the act *invisible*.⁴²²

In the Finnish criminal legal doctrine – and to certain extent also the Turkish – this discourse is not officially recognised:⁴²³ however, it occurs in practice.⁴²⁴ The formal legal support of the discourse might be found e.g. in the so-called *margin of appreciation*, giving the judge the privilege of interpretation.⁴²⁵ This is a legal instrument in multiple legal systems, international and national, allowing more or less space for the judge to apply legal norms to a case.⁴²⁶

The discourse of *female behaviour* exists to some extent in all the judgements analysed. However, in some cases, it is more dominating than in others. The discourse could be found in Turkish as well as Finnish judgements, being somewhat more apparent in the Turkish judgements investigated. It is likely that the application of the *unjust provocation* article in the Turkish legal system is linked to the discourse of *female behaviour*, which would explain the higher prevalence of the discourse in the Turkish judgements. This observation has also been highlighted by Turkish and Kurdish feminists.⁴²⁷ However, since the research sample of this study is small, no further conclusions about major differences in national legal systems can be made. The cases where the *female behaviour* discourse is most clearly dominating are cases T1, T3 and T4. However, in the following, examples from the other judgements are also taken into consideration. This is done in order to get a more nuanced picture of how the discourse is used: it is most often implied between the lines, in single comments such as *the behaviour of the victim had not given the perpetrator*

⁴²² This issue has been analysed e.g. by Edwards S. 1987 and Lövkrona 2001, p. 17.

⁴²³ In Finnish legal literature, this can be seen in the absence of discussions on provocation. There is no substantial discussion on provocation e.g. in the doctoral dissertation by Jussi Matikkala, which covers the legal concept of *intent*. Matikkala 2005. *Violent provocation* is shortly mentioned by Matikkala in Matikkala 2000, pp. 61–63. In the criminal legal manual by Lappi-Seppälä *et al*, it is only shortly mentioned as a possible ground for regarding a manslaughter a *killing*, referring to the Government Bill. (see 4.2.1 *Finnish Legislation*). Lappi-Seppälä *et al* 2009, p. 499. In Turkish legal literature, greater attention is paid to that of provocation, much explained by the existence of Article 29. Here, the concepts of *objective* and *subjective* provocation are distinguished. See Belge 2008, pp. 51–52, CezaKanunu.net: TCK Madde 29 and Özcan 2013, pp. 253–254.

⁴²⁴ An example within the Finnish legal context, see Ruuskanen 2005. An example within the Turkish legal context, see Baytok 2012.

⁴²⁵ The margin of appreciation has certain resemblance with the comprehensive assessment of a case, which the judge is supposed to do. See Matikkala 2000, pp. 54–56 and 60.

⁴²⁶ On the margin of appreciation within international human rights law, see Legg 2012.

⁴²⁷ İstanbul Barosu Kadın Hakları Merkezi 2010, pp. 43–44 and Baytok 2012, p. 66.

*any reason to kill her.*⁴²⁸ This makes it difficult to define the discourse as dominant. However, *minor utilisation* of the discourse also affects the *male violence* discourse used: explaining, excusing and justifying the violence perpetrated.

In case F1, the *female behaviour* discourse is evident, even though it does not perhaps dominate over the *male violence* discourse. Two examples of the discourse, one from the Court of First Instance and one from the Court of Appeals, can be considered to be the following: *According to the story of P [the male perpetrator], the conclusion cannot be that S [the female victim] would have, through her behaviour, caused the sense of aggression that P felt, which would explain his decision to kill his wife.*⁴²⁹ [...] *Things, which speak for the fact that the crime cannot be considered as aggravated when addressed as a whole, are the facts that P was very angry before the killing – because S had confessed her extramarital relationship – the jealousy motive and P's unbalanced life management and mental (in)stability before the act.*⁴³⁰

In the examples described, there is a clear emphasis on the behaviour of the female victim. In the first argument, the behaviour of the woman is highlighted as the main focus of the trial (even though she is regarded innocent). In the second argument, the fact that the woman had confessed an extramarital relationship and the possible *jealousy motive* that this might have given rise to, are described as facts that limit the criminal legal responsibility of the male perpetrator. Hence, the male perpetrator is given a certain right or privilege to punish *his woman*⁴³¹ in the cases where the judge considers her behaviour to be unwanted. No matter whether the woman is considered guilty or not of the *unwanted behaviour* by the court, the mere usage of the discourse *female behaviour* contributes to the justification of gendered violence.⁴³²

In judgement F3, the *female behaviour* discourse is evident primarily in the comment

⁴²⁸ Seen in the Finnish judgements, e.g. cases F1 and F5.

⁴²⁹ Independent translation from Finnish by the author: "P:n kertomuksen nojalla ei voitu päätellä sitä, että S olisi kyseisessä tilanteessa oman käyttäytymisensä perusteella aiheuttanut P:lle aggression tunnetta, joka selittäisi hänen päätöksensä ampua vaimonsa." KKO:2004:80, Turunseudun käräjäoikeus R 01/542, Judgement given 5 December 2001, p. 10.

⁴³⁰ Independent translation from Finnish by the author: "Seikkoja, jotka puhuivat sen puolesta, ettei kysymyksessä olevaa rikosta voitaisi kokonaisuutena arvostellen pitää törkeänä, olivat P:n voimakas suuttuminen ennen surmaamista sen johdosta, että S oli tunnustanut avioliiton ulkopuolisen suupuolisuhteensa, mustasukaisuusmotiivi ja P:n jo jonkin aikaa ennen tekoa voimakkaasti järkkynyt elämänhallinta ja henkinen tasapaino." KKO:2004:80, Turun hovioikeus R 02/125, Judgement given 11 April 2003, p. 4.

⁴³¹ This patriarchal argumentation – the woman represented as a commodity, belonging to the man – can also be seen in the Turkish legal system. See Ertürk 2009, p. 62.

⁴³² Since the application of the discourse is rendering the discourse stronger in itself.

written by the judge in the Court of First Instance, who did not agree with the majority of the judges that the manslaughter was aggravated: *When regarding the issue, whether the crime should be considered as aggravated when addressed as a whole, one should take into consideration the fact that it is evident from the stories of both S [the female victim] and A [the male perpetrator] that the events described in the prosecution were preceded by hours of nagging and acting up by S. This caused a sense of annoyance for A, and finally took him to a stage of uncontrollable anger [...] Even though the killing was perpetrated in a particularly brutal and cruel manner, it cannot be considered to be aggravated when addressed as a whole, which is required in order to regard the case a murder. Therefore, A can be regarded guilty of manslaughter.*⁴³³ The acts of the male perpetrator are described largely as consequences of the *acting up* and *nagging* by the woman. As stated earlier, this kind of “provocation” does not formally receive any protection in the Finnish legal system. However, this kind of provocation appears to fall in the wide margin of appreciation of the judge, *de facto* receiving protection in the Finnish legal system and argumentation.

In judgement F6, the discourse is visible in the legal argumentation of the judgement by the Court of Appeals: *There is no proof that K [the female victim], who was lying on the bed at the time, had given I [the male perpetrator] any reason or in any way contributed to his behaviour. What could be considered as contribution cannot be her decision to leave home, or possible scolding of and kicking I.*⁴³⁴ In this case, it is evident that the righteousness of the violence perpetrated by the man is mirrored against the behaviour of the woman. Describing the actions of the female victim as *reason* or *contribution* to the violence, the *male violence* discourse becomes strongly influenced by the usage of the *female behaviour* discourse: making the violence of the male perpetrator *secondary* to the behaviour of the woman.

In case T1, the discourse appears e.g. in the following excerpts: *Having sexual relations with men for money [...] the lifestyle of the victim does not constitute grounds for*

⁴³³ Independent translation from Finnish by the author: ”Pohdittaessa sitä, onko rikos myös kokonaisuutena arvostellen ollut törkeä, on huomioitava se, että sekä S:n että A:n kertomuksista käy ilmi, että syytteessä kuvattuja tapahtumia on edeltänyt tuntikausia kestänyt S:n äksyily ja nalkutus. Tämä on aiheuttanut A:ssa ärtymystä ja lopulta johtanut hänet hallitsemattomaan raivotilaan [...] Vaikka tappo olikin tehty erityisen raa’alla ja julmalla tavalla, ei sitä voitu pitää kokonaisuutena arvostellen murharikoksen edellyttämällä tavalla törkeänä, joten teko oli luettava A:n syyksi tappona.” KKO:2000:29, Joensuun käräjäoikeus R 97/963, Judgement given 19 January 1998, p. 16.

⁴³⁴ Independent translation from Finnish by the author: ”K, joka oli tuolloin levännyt vuoteella, ei ole näytetty millään tavalla antaneen aihetta tai myötävaikuttaneen I:n menettelyyn. Tällaista myötävaikuttamista ei ole hänen päätöksensä lähteä pois kotoa, eikä myötävaikuttamisena voida pitää myöskään mahdollista I:in kohdistunutta potkimista tai haukkumista.” Kouvolan hovioikeus, Judgement no. 2011/399, Record no. R 10/1129, Judgement given 14 April 2011, p. 4.

provocation, since there is no wrongful action before or during the events on behalf of the victim. This would have had to include an unjust action or utterance from the victim, which is absent in the case [...].⁴³⁵ In this judgement, what is referred to as the *lifestyle* of the female victim is given legal consideration: in the Supreme Court, it is judged not to constitute unjust provocation, diverging from the opinion of the lower court instance. It is significant to point out, is that the incidents where the female victim had been selling sex are described as her *lifestyle*, and not simply as work, or a way of making money. Selling sexual services is considered to be a part of her behaviour, or even *character*, but not to directly affect the situation in the way demanded in order for it to constitute grounds of unjust provocation. Through the utilisation of the discourse, the male violence is rendered invisible, at least for a moment, in the judgement: focusing on the provocative nature of the lifestyle of the woman killed, rather than the acts of the man, who ultimately killed her.

In judgement T2, there are also examples of the discourse: *The marriage took place after the finalisation of the divorce proceedings between the deceased victims. The victim [the male victim in the case] was married to Ze [the female victim in the case] on the grounds of an emotional relationship, in the presence of a witness, stating that there was no evidence of concrete hindrance for the marriage to take place.*⁴³⁶ In this case, the provocation of the perpetrator is viewed against the *righteousness* of the woman's *new marriage*. Hence, the female behaviour had an ultimate influence of the justification of the killing in court, and thus the judgement. In this judgement, there is much focus on the behaviour of the female victim, in concluding whether her decision to remarry (i.e. her behaviour) somehow justifies the male violence, or not.

The discourse also occurs in the legal argumentation in judgement T3, where the Supreme Court considers the following: [...] *when rumours started to exist between the two families, saying that the victim was cheating on her husband, the relationship between the families was completely cut. This caused the family of the victim to blame the victim for the*

⁴³⁵ Independent translation from Turkish by the author: “para karşılığı erkeklerle ilişkiye giren maktule [...] Maktulenin yaşam tarzının sanık yönünden tahrik oluşturmayacağı, olay öncesinde veya sırasında maktuleden kaynaklanan sanık lehine tahrik oluşturacak herhangi bir haksız söz veya eylem bulunmadığı gibi olaydan önce sanığın maktuleye küfredmesiyle ilk haksız hareketin kendisinden kaynaklandığı anlaşıldığı halde [...]” The Supreme Court of Appeals of Turkey, Decision no. 2010/3023, File no. 2009/6525, Judgement given 27 April 2010.

⁴³⁶ Independent translation from Turkish by the author: “Maktullerin evlilikleri boşanma davasının kesinleşmesinden sonra gerçekleşmiş olup maktuller arasında, sanıkla maktul Ze'nin evli oldukları süre içerisinde de duygusal ilişki bulunduğu dair görgüye dayalı bir tanık beyanı veya somut bir delil bulunmamaktadır.” The Supreme Court of Appeals of Turkey, Decision no. 2011/124, File no. 2011/1-24, Judgement given 14 June 2011.

lowering of family honour and dignity [...].⁴³⁷ The *lowering of honour* that rumours about the extramarital affair is perceived to have caused, is provided as the main motive for the killing of the woman, making the behaviour of the woman more central than the violence perpetrated by the male perpetrator. Thus, the male violence perpetrated – later described in the case – is continuously viewed against the female behaviour, providing the motive of the killing.

In case T4, there is an example of the discourse in the argumentation of the Supreme Court: *The fact that the victim, the wife of the defendant, did not want to go to Antalya and did not want to have sexual intercourse with the defendant when he made a proposal of such, and the fact that he was pushed out of bed and insulted by the victim, do not provide grounds for unjust provocation.*⁴³⁸ Here, the behaviour of the female victim is examined by the judges, whether it is provocative in a legally relevant way or not. In this case, neither of the court instances thought that the case could be considered as unjust provocation. However, it has been argued that the mere *existence* of the discourse – encouraged by the existence of the article on unjust provocation – is problematic.⁴³⁹ Instead of investigating the violence perpetrated by the man, the court is concentrating on whether the behaviour of the woman was *enough to kill her*.

In judgement T5, the discourse is visible in the following argument, highlighted by the Supreme Court: [...] *the mother of the defendant bears witness that the victim was a clean and honourable bride [...] in his defence, the defendant claims that his wife had extramarital relations twice, which made him angry on the night of the events.*⁴⁴⁰ The fact that the perceived sexual purity of the female victim – as well as the discussion of the probability that she was having extramarital relations – are given this much attention,

⁴³⁷ Independent translation from Turkish by the author: “[...] maktulenin kocasını aldattığı yönünde dedikodular çıkması üzerine her iki aile arasında geçimsizlik başladığı ve aileler arasındaki ilişkilerin tamamen koptuğu, maktulenin ailenin namus ve şerefini eksiltten davranışlarda bulunmakla suçlandığı [...]” The Supreme Court of Appeals of Turkey, Decision no. 2009/293, File no. 2008/10901, Judgement given 30 January 2009.

⁴³⁸ Independent translation from Turkish by the author: “Maktulenin, eşi olan sanıkla Antalya’ya gitmek istememesi ve cinsel birleşme talebini reddetmesi haksız tahrik teşkil etmiyor ise de; aksi kanıtlanamayan savunmaya göre olay gecesi cinsel ilişki teklif ettiği eşi olan maktulenin, kendisini iteklemesi, yataktan düşmesi ve hakaret etmesinin sanık lehine haksız tahrik teşkil ettiği cihetle tebliğnamenin bu öndeki bozma isteyen düşüncesi benimsenmemiştir.” The Supreme Court of Appeals of Turkey, Decision no. 2007/6751, File no. 2006/4529, Judgement given 24 September 2007.

⁴³⁹ İstanbul Barosu Kadın Hakları Merkezi 2010, pp. 43–44.

⁴⁴⁰ Independent translation from Turkish by the author: “[...] sanığın annesi tanık F.’nin dahi gelininin temiz ve namuslu bir kadın olduğunu söylediği [...] sanık savunmasında eşi maktulenin başka biriyle iki kez ilişkiye girdiğini söylemesi üzerine sinirlenerek eylemi gerçekleştirdiğini belirttiği olayda” The Supreme Court of Appeals of Turkey, Decision no. 2012/1724, File no. 2010/3234, Judgement given 13 March 2012.

nurtures the discourse of *female behaviour*. The final result of the judgement – that the claim of the extramarital relations was not likely to be true, not giving the male perpetrator the right to benefit from the article on unjust provocation⁴⁴¹, is of minor importance for the existence and enforcement of the discourse. The more important for the domination of the discourse is the amount of the court's attention that is turned *from* the acts of the male perpetrator, *towards* the behaviour of the female victim.

As mentioned earlier, the existence of the article on unjust provocation in the Turkish Criminal Code has been considered as highly problematic, since it encourages the use of the *female behaviour* discourse. The discourse is *not dependent* on the existence of the article – as can be seen in the Finnish judgements – but the utilisation of the article leads to its further strengthening. It is possible to ask oneself whether the Finnish Criminal Code encourages this discourse, in particular with the existence of the section on *killling*.⁴⁴² As described above, the interpretation of the section potentially opens up for the utilisation of this discourse, as is somewhat implied in the case KKO:1997:153.⁴⁴³

5.2.3 Normalised/Individual Violence

In this section, I intend to look at the discourse that I describe as *normalised* or *individual violence*. I analyse it as opposed to the discourse of *essentialised* or *collective violence* in the court judgements. In my analyses, I focus particularly on the descriptions of the perpetrated gendered violence perpetrated within the judgements: if it is described as *normal* violence/violence perpetrated by an individual due to an individual decision, or *essentialised* or *abnormal* violence, perpetrated by an individual or a group due to a decision of a group (a collective decision). Thus, the descriptions of the violence perpetrated have different elements involved. However, both discourses mainly focus on the *narrative of the male perpetrator*, focusing on finding the motive and explanation, excuse, or even justification of the violence.⁴⁴⁴ At this stage, it is important to point out that other descriptions of violence are also possible, and frequent, in the court judgements, such as simple descriptions of violence and damages, without further explanations of motives or

⁴⁴¹ Unlike the Court of First Instance, where he was given the right to benefit from the article of unjust provocation. The Supreme Court of Appeals of Turkey, Decision no. 2012/1724, File no. 2010/3234, Judgement given 13 March 2012.

⁴⁴² Regarded as manslaughter under extenuated circumstances. See chapter 4.2.1 *Finnish Legislation*.

⁴⁴³ See chapter 4.2.1 *Finnish Legislation*.

⁴⁴⁴ See Lundgren and Westerstrand 2002.

context. However, I do not primarily focus on these descriptions in this study.

The *normalised/individual violence* discourse describes the violence perpetrated as *deviant*, while the perpetrator is otherwise largely described as *normal*. The perpetrator is identified as part of the *collective self*,⁴⁴⁵ while the violence perpetrated derives from *deviant factors*: the perpetrator might be described as *particularly jealous, blinded by extreme anger*, or otherwise *mentally deviant*. The narrative of the perpetrator is that he killed the woman because *he saw no other, or little, alternative* at the time being. The perpetrator often claims to have few or vague memories of the killing, and is overall described in the judgement as later distancing himself from the events.⁴⁴⁶ In the construction of gendered violence, it is important to stress the fact that what is described as *normalised* or *individual violence* is often perceived as the *violence of the (collective) self*, while what is described as the *essentialised* or *collective violence* is often perceived as the *violence of the (collective) other*.⁴⁴⁷ As stated earlier, this study regards the majority positions⁴⁴⁸ as the *collective self*, and the minority positions⁴⁴⁹ as the *collective other*. Commonalities of both violence discourses are that they support the narrative/story of the perpetrator, and regard the female victim as the *other*.

In case F1, following examples of the discourse, in the judgement of the Supreme Court, emerge: *During the fight, in order to further emphasise his words, P [the male perpetrator] had taken out his firearm, set the hammer ready for shooting and pointed it at S [the female victim]. When she surprisingly left the apartment, P, according to his own story, was caught under the influence of anger, followed S and shot her, emptying the clip of his gun by the shots. [...] P had, under the same influence of anger, gone back to his apartment, changed the clip of the gun, went out of the apartment and shot S, who was lying on the ground 1–2 meters away from him. [...] Regarding whether the act was premeditated, P considers that the Court of Appeals had (over)emphasised the threats that he had directed towards S. These types of coincidental, old and disjointed “threats” could not be given the position of evidence. He had probably uttered them when he was under the influence of alcohol, and they can be regarded as some form of masculine outbursts.*⁴⁵⁰

⁴⁴⁵ In which the collective character is not necessarily outspoken, but rather implicit.

⁴⁴⁶ About these narratives and myths of violence, see Lundgren and Westerstrand 2002.

⁴⁴⁷ See Lundgren *et al* 2001 and Sirman 2011.

⁴⁴⁸ Finnish and Turkish majority population(s).

⁴⁴⁹ Immigrant and Kurdish minority population(s).

⁴⁵⁰ Independent translation from Finnish by the author: ”Riidan aikana P oli puheitaan tehostaakseen ottanut aseesi esiin, virittänyt sen ampumavalmiiksi ja osoitellut sillä S:ä. Tämän lähtiessä yllättäen poistumaan

When analysing this example, it is important to keep in mind that it is the description of the perpetrator, retold in the argumentation of the court: also addressed as such. Thus, it does not have the *direct voice of the court*, and does not receive the same position of authority as the later argumentation, addressed as the view of the court. However, the extract is described under the section *reasoning of the court*, thus given certain value in the legal judgement. Therefore, the extract and its phrasing should be read as part of the judgement. It is possible to argue that the words of the perpetrator are given the *indirect voice of the court*.⁴⁵¹ The excerpt describes the narrative of the perpetrator as an individual man under the influence of aggression, who killed his wife due to this exceptional anger. The earlier threats are described as *deviant*, uttered under the influence of alcohol. This is done in order to emphasise the *exceptional, irregular nature* of the violence: according to the perpetrator, the violence does not form a pattern, but have to be seen as independent occurrence. On the other hand, it is necessary to note that the perpetrator seems to recognise, and blame, some form of pattern, or structure, of the threats, referring to them as *some form of masculine outbursts*. Thus, he is partly addressing the violence perpetrated as gendered.

Another example of the discourse from the legal argumentation of the Supreme Court, this time particularly considering *mental deviancy*, is the following excerpt from case F2: *What also supports that A [the male perpetrator] cannot be held fully responsible for the acts, is the impetuosity of the violence, and in particular that it was directed, apart from against his wife, also against his particularly close, small children*.⁴⁵² In this case, the deviancy of the violence is expressed through its direction towards some of the objects of the violence, the children. The children are described as *unexpected* and *innocent victims*, a description creating the need for an explanation of the violence. When it comes to the adult woman killed, she is not granted the same position. Contrasted towards her children, there seems to

asunnosta P oli joutunut kertomansa mukaan raivon valtaan, jolloin hän oli kääntynyt S:n perään ja ampunut asean lippaan tyhjäksi. [...] P oli saman raivon vallassa palannut porraskäytävästä asuntoon, vaihtanut aseeseen toisen lippaan, mennyt ulos ja ampunut 1–2 metrin etäisyydeltä maassa makaava S:ä kohti. [...] P on hänen syykseen luetun vakaan harkinnan osalta todennut hovioikeuden korostaneen hänen S:ään kohdistamiaan uhkauksia. Tällaisille sattumanvaraisille, vanhoille ja irrallisille ”uhkauksille” ei tullut hänen mielestään antaa näyttöarvoa. Hän oli saattanut sanoa niitä juovuksissa ollessaan, ja niitä voitiin pitää jonkinlaisena miehisenä uhoamisena.” KKO:2004:80, the Supreme Court, Judgement given 2 September 2004, pp. 4–5.

⁴⁵¹ The voice of the court is analysed in Bladini 2013, pp. 281–295. It is also touched upon in Ruuskanen 2006 and 2005.

⁴⁵² Independent translation from Finnish by the author: ”Sen puolesta, että A teot tehdessään olisi ollut alentuneesti syyntakeinen, puhuu hänen käyttämänsä väkivallan rajuus ja erityisesti sen kohdistuminen, paitsi hänen vaimoonsa, myös hänelle erittäin läheisiin omiin pieniin lapsiin.” KKO:2000:3, the Supreme Court, Judgement given 18 January 2000, p. 4.

be a lesser need to explain the violence directed towards her: hence, there is a certain, implicit normalisation of this violence.

In case F3, one example of the discourse is expressed in the opinion of the judge in the Court of First Instance, who did not agree with the majority of the judges that the manslaughter was aggravated: [...] *At this stage, A [the male perpetrator] could no longer control his actions, but was committing the actions described in the prosecution in an uncontrollable, aggressive and uninterrupted outbreak of rage [...]*.⁴⁵³ In this argumentation, the violence perpetrated by A seems to be excused by the stage of *uncontrollable anger*, which he was in. As described earlier, this uncontrollable anger is described as a result of the behaviour of the female victim. According to this logic, the violence is described in a normalised manner: the main reason for the woman's death was her own behaviour. The violence of the man is not the focus of the extract, neither is any structural nature of the violence. Hence, one can begin to distinguish a certain bond between the discourse *female behaviour* and *normalised/individual violence*.

In judgement F4, the argumentation of the Court of First Instance can be seen as having been influenced by the discourse: *The Court of First Instance regards G's [the male perpetrator's] story as believable, according to which he completely lost his self-control, when A [the female victim] refused to speak to him. This is also supported by the story of the witness K, according to whom G had tried to speak with A. A was accompanied by the couple's younger child. The act of G was not premeditated.*⁴⁵⁴ In this example, similarly to the pervious examples, the behaviour of the woman is described as the reason for the aggression of the male perpetrator, making the violence seem natural and/or normal. Here, the killing is described as a sudden act of aggression, instead of a premeditated act. The same judgement also comprises information about earlier violence that the male perpetrator had directed towards the woman. However, this is not included in the argumentation of the judgement in deciding upon the nature of the killing: due to the criminal doctrine, which typically limits the focus of the trial to the duration of the event

⁴⁵³ Independent translation from Finnish by the author: "Tässä tilassa ollessaan A ei ollut enää pystynyt kontrolloimaan toimiaan, vaan oli tehnyt syytteessä kuvatut teot hallitsemattomassa, aggressiivisessa ja yhtäjaksoisessa raivonpurkauksessa." KKO:2000:29, Joensuun käräjäoikeus R 97/963, Judgement given 19 January 1998, p. 16.

⁴⁵⁴ Independent translation from Finnish by the author: "Käräjäoikeus pitää uskottavana sitä G:n selitystä, että hän oli täysin menettänyt malttinsa, kun A oli kieltänyt keskustelemasta hänen kanssaan. Tätä tukee myös todistajana kuullun K:n kertoma siitä, että G oli pyrkinyt Turvakodissa puhumaan A:n kanssa. A:lla on lisäksi ollut pariskunnan nuorempi lapsi mukanaan. G ei ole toiminut vakaasti harkiten." Helsingin käräjäoikeus, Judgement no. 06/1871, Record no. R 05/8762, Judgement given 22 February 2006, p. 5.

considered to be *legally relevant*.⁴⁵⁵ Thus, it is difficult to introduce other perspectives of the violence, e.g. structural patterns and/or the perspective of the victim/survivor, who has faced a continuum of violence, rather than individual occurrences.⁴⁵⁶

In the Finnish judgements, the *objectivity paradigm* is clearly manifested in the fact that the language of the *individual* (and *normalising*) discourse is strong in the argumentation of the court.⁴⁵⁷ In the Turkish court cases, the *objectivity paradigm* can also be identified, however, the overall approach is somewhat different from the Finnish cases. An example of this is that, in one of the Turkish court cases analysed, sociological research is used as part of the legal argumentation. This would not be particularly common in a Finnish court, which traditionally focuses on the sources considered to have a higher *hierarchical legal value*.⁴⁵⁸ The *normalised* or *individual* discourse being strong in the argumentation of the Turkish Supreme Court, the *essentialised* or *collective* discourse can also be considered to be frequently used. In the following, I analyse a few examples of the *normalised* or *individual* discourse found in the Turkish cases.

In judgement T2, an example of the discourse can be found in the judgement of the Supreme Court, when it depicts the narrative of the male perpetrator [...] *When my old wife saw me, she said “look at that bad man, standing here without shame”, which I found insulting. Zi [the woman’s new husband, the male victim], who was standing next to her, made some movements. I noticed that he was correcting the position of his jacket, and trying to put his arm around her waist. Thinking that he would pull out a gun, I pulled out my gun. It had fourteen bullets inside. I opened fire against Zi from a distance of 2–3 meters. I do not remember how many times I shot him. While I was doing this, Ze [the female victim] continued shouting and speaking. She said that I had no dignity. For this reason, I could not stop myself from shooting at her. I do not remember how many times I shot her. They both fell to the ground. Then, I noticed that the child was present.*⁴⁵⁹

⁴⁵⁵ The disadvantages of this approach are well demonstrated in Ruuskanen 2005.

⁴⁵⁶ Thus, it is not in accordance with (certain) feminist theory. See SOU 2004:121, p. 12, Eldén and Westerstrand 2003, Lundgren 2013.

⁴⁵⁷ About the objectivity paradigm, see Chomsky 2003 and Bladini 2013, pp. 38–43.

⁴⁵⁸ Which can be considered to be characteristic for Finnish and Nordic legal doctrines. Peczenik 1995, pp. 183–199. See also Tuori 2000, pp. 174–175.

⁴⁵⁹ Independent translation from Turkish by the author: ”Eski eşim beni görünce; 'terbiyesize bak, utanmadan karşımıza çıkıyor' diye hakarete bulundu. Yanında bulunan Zi da bazı hareketler yaptı. Ceketini toplamaya, elini beline götürmeye çalıştığını fark ettim. Silah çekeceğini zannederek üzerimde bulunan ondörtlü tabir edilen silahı çıkardım. İçerisinde ondört tane mermi vardı. İki üç metre mesafeden Zi'ya ateş etmeye başladım. Kaç el ateş ettiğimi hatırlamıyorum. O sırada Ze bağırma ve konuşmaya devam ediyordu. Bana; 'şerefsiz' dedi. Bu sebeple kendime hakim olamayarak ona da ateş etmeye başladım. Kaç

Much like case F1, the court describes the narrative of the perpetrator directly *in his own words*; it does not add its own voice to it, at least not *directly*. However, the court is responsible for the phrasing, as well as the choice of whose narrative in the judgement text is given what amount of *focus*, since the judgement is an official document of legal value. It is possible to pose the question whether the extract in its current form is suitable for the judgement text, unquestionably nurturing the discourse of *normalised* gendered violence. In the example described, the narrative and the legal strategy of the male perpetrator is that he was acting out of rage, and that he could not control his behaviour: this is particularly true for the killing of the woman. Thus, he is hoping to benefit from the article of unjust provocation. This strategy can be potentially beneficial in both Finnish and Turkish court practice. This is because violence described as an impulse, rather than as planned, often receives a milder treatment by the court, resulting in a lesser punishment.⁴⁶⁰ This similarity between the two different legal systems is noteworthy, particularly when it comes to gendered violence. On the other hand, it is difficult to draw any conclusions within the framework of legal argumentation, the individualist approach of law avoiding to recognise patterns.

A final example of the discourse can be seen in case T6, in the comment added to the Supreme Court judgement by the judge who thought that the article of unjust provocation should be applied in the case: *On the day of the events, the defendant had not seen F [his son] for a long time, since he was living in another place. He went to the home of his son in order to see him, facing the victim when trying to enter the house. The victim did not allow him to enter, and he was exposed to insults and attacks by the victim, who was provoking the defendant, resulting in the events that took place [the killing of the woman] [...]*.⁴⁶¹ In this minority opinion, the acts of the defendant are described as results of the behaviour of the female victim: therefore, there is a clear link between the discourses *female behaviour* and *normalised violence* in this case. The same link is clearly visible in the aforementioned example, as well as in case F3. The guilt for her own killing is placed on the woman, instead of the male perpetrator.

el ateş ettiğimi hatırlamıyorum. İkisi de yere düştü. O sırada yerdeki çocuğu fark ettim.” The Supreme Court of Appeals of Turkey, Decision no. 2011/124, File no. 2011/1-24, Judgement given 14 June 2011.

⁴⁶⁰ See chapters 4.2.1 *Finnish Legislation* and 4.3.1 *Turkish Legislation*.

⁴⁶¹ Independent translation from Turkish by the author: ”Olay günü uzun zamandan beri görmediği müşterek çocuklarından F’i görmek amacı ile kendisinden ayrı yaşayan maktûlenin ikamet ettiği eve gittiği, evin önünde karşılaştığı maktûleden oğlunu görmesine izin vermesini istediği, ancak maktûlenin saldırısına ve hakaretine maruz kalması üzerine, maktûleden gelen ve hiç beklemediği bu fiili saldırı ve tahrikin etkisi ile aniden gelişen olaylar sonucu tehevüren [...]” The Supreme Court of Appeals of Turkey, Decision no. 2009/290, File no. 2009/1-200, Judgement given 15 December 2009.

In judgements T5 and T6, it is particularly significant how little attention is paid by the court to the fact that the male perpetrator had travelled a long way, even from another city, in order to kill the female victim. Furthermore, it is important to notice that the strategy of unjust provocation was successful in the lower court instances, regardless of the long trip that the male perpetrator had made, and the fact that the male perpetrator in each case had brought a gun with him.

5.2.4 *Essentialised/Collective Violence*

As opposed to the previous discourse, I argue that there is a discourse describing violence as *clearly abnormal* and *particularly belonging to members of certain groups*, particularly visible in some of the judgements. I have chosen to refer to this discourse as *essentialised* or *collective violence*, primarily describing violence as the violence of the *other*. The discourse can be addressed in multiple ways in the judgements, but the main element of the discourse is that the violence is *attached* to a certain person or group as a characterising feature, while the *normalised/individual* violence is described as *deviant* and *separate* from *a person or a group*. Hence, there is a similarity between this opposition and the opposition between the *male violence* and *female behaviour* discourses.

Even though accounting for structural violence is unusual within the criminal legal framework, it is sometimes visible *in practice* when it comes to the descriptions of the violence of the perceived *other*. Here, structural patterns of gendered violence are addressed, often implicitly in the judgements, but sometimes also explicitly. This discourse is particularly harmful from an intersectional perspective, since it *recognises* the *structural* problems of gendered violence, however only concerning the *minority*, and not the majority. Thus, the problematic nature of the gendered violence of the majority population is rendered invisible, while the minority population is labelled *as* the problem.⁴⁶² This, in fact, directly works in a harmful way for multiple groups: e.g. the women of the majority population, the women of the minority population and the men of the minority population. The normalised violence, perpetrated by the men of the majority population, is not recognised as a structural problem.⁴⁶³

There are examples of this essentialising discourse in both Finnish and Turkish cases:

⁴⁶² Hence, the particularity of the violence is addressed without recognising the universality of the violence, which can be considered highly problematic. See Ertürk 2009 and Koğacioğlu 2011.

⁴⁶³ This is also described in the 2009 report of the SRVAW. A/HRC/11/6/Add.5, p. 42.

however, the circumstances surrounding the legal environment and legal argumentation are somewhat different. Due to the official policy of the Turkish government,⁴⁶⁴ and that Kurdish names have been long forbidden in law,⁴⁶⁵ the Kurdish minority is typically not addressed as such in the court judgements. However, Kurdish people are often addressed by other means in the judgements analysed, often referring to geography, such as *rural areas*, *eastern* or *south-eastern parts of Turkey*, but also expressions like *villagers* or *people living in feudal systems* are commonly used. Therefore, the discourse is evident in these ways, often referring to Kurdish people.⁴⁶⁶ In the Finnish context, the aforementioned *objectivity paradigm* within law largely excludes explicit mentioning of things that are not considered legally relevant. To be a member of an ethnic, religious or racial minority is most of the times not considered legally relevant, however this is not true for all cases, as will be demonstrated. The discourse is more often expressed *implicitly* in the Finnish judgements, such as in the formulation by the court of the narrative of the male perpetrators (or the lack of such reformulation), as well as the choice of facts brought forward in the judgements.⁴⁶⁷

In the Finnish context, one of the clearest, most explicit examples of the discourse can be found in case F6, in the argumentation of the Court of Appeals: *Modus operandi has been of rare nature in Finnish circumstances, and can be considered to symbolise the particular determination to achieve the ultimate result of the crime. Neither the modus operandi, nor other circumstances suggest that the situation would have arisen suddenly, due to agitation, or otherwise outside the control of I [the male perpetrator]. Rather, modus operandi suggests that the action was long premeditated and controlled.*⁴⁶⁸

Modus operandi, the cutting of the throat, is described as rare in *Finnish circumstances*, and it is highlighted as the suggestion that the act was *not* an act of sudden rage. Thus, the *normalised/individual* discourse is here viewed against what is perceived as *essentialised/collective* violence. This is particularly important when comparing the case

⁴⁶⁴ Often claiming that Kurdish and Turkish people are inseparable as groups.

⁴⁶⁵ A policy that is still enforced in practice. See Aslan 2009.

⁴⁶⁶ See Belge 2008 and Bayr 2013.

⁴⁶⁷ Additionally, what is not being said, and what is not given place in the judgements is also important. See Carbin 2010, p. 34.

⁴⁶⁸ Independent translation from Finnish by the author: ”Tekotapa on ollut Suomen oloissa harvinainen ja sen voidaan katsoa ilmentävän tekijän poikkeuksellista päättäväisyyttä teon lopputuloksen suhteen. Tekotapa tai muut tekoon liittyvät olosuhteet eivät sitten viittaa myöskään siihen, että tilanne olisi yht’äkkiä kiihtymyksen takia tai muutoinkaan riistäytynyt I:n hallinnasta, vaan tekotapa osoittaa pikemminkin harkittua ja hallittua toimintaa.” Kouvolan hovioikeus, Judgement no. 2011/399, Record no. R 10/1129, Judgement given 14 April 2011, p. 3.

with the judgement F3, in which the male perpetrator also cut the throat of the victim. Here, it was not mentioned that *modus operandi* is unusual in the Finnish context. Even though both cases are described as perpetrators acting on their own decisions, the violence in case F6 [the immigrant, Muslim minority population perpetrator] is described as premeditated due to *modus operandi*, while the similar violence in case F3 [the Finnish majority population perpetrator] is *not* described as premeditated. However, it is necessary to add that the facts and contexts of the cases are different, and that they are not directly comparable.

In the same [F6] case, there are additional arguments worth noticing, particularly in the prosecution, included in the intermediate judgement of the Court of First Instance: *I regard the crime as an act, which has traces of brutish, ritual slaughter [...]*.⁴⁶⁹ Also in this regard, the prosecutor refers to the *modus operandi* of the act, considered as resembling *ritual slaughter*. Whether this aspect of *modus operandi*, most probably referring to *Dabīḥah*, the Islamic religious slaughter of animals, is highlighted due to the fact that the defendant is a Muslim, becomes clarified later in the intermediate judgement by the Court of First Instance: *He is a Sunni Muslim. He has never even participated in animal slaughter*.⁴⁷⁰

It remains questionable whether the fact that the male perpetrator is Muslim is relevant to the criminal legal assessment of the case. The fact that the religious slaughter is mentioned in the case is important because the *Dabīḥah* slaughter is performed by cutting the animal's throat, in order to more effectively drain the blood from the animal, resulting in more hygienic meat. Therefore, it is strictly a way of killing *animals* for food, and does not possess a ritual sense in killing human beings. Therefore, the sense of the *ritual* cannot, *mutatis mutandis*, be applied to the killing of the woman in the case. Thus, I regard it mainly as a means of expressing *difference* and *alterity*. It is also interesting to notice that the fact that the perpetrator was Muslim would, according to the court, suggest that he had been participating in religious slaughter. In the judgement, there seems to be a need for the court to highlight that he had *not* been part of any religious slaughter, *even though* he was a Muslim.

⁴⁶⁹ Independent translation from Finnish by the author: "Katson, että rikos on ollut tekotavaltaan raaka rituaaliteurastusta jäljittelevä teko [...]" Kouvola hovioikeus R 10/1129, Etelä-Karjalan käräjäoikeus, R 10/360, Judgement given 16 April 2010, p. 2.

⁴⁷⁰ Independent translation from Finnish by the author: "Hän on sunni-muslimi. Hän ei ole ollut ikinä edes mukana eläimen teurastuksessa." Kouvola hovioikeus R 10/1129, Etelä-Karjalan käräjäoikeus, R 10/360, Judgement given 16 April 2010, p. 14.

In the same case, there also seems to be a particular eagerness to find the *motive* of the crime, expressed by the prosecution in the following sentence: *I has in the beginning of the investigation repeatedly admitted killing K [the female victim] without being able to account for any motive.*⁴⁷¹ The case was reported in the media, mainly because both the perpetrator and the victim were members of a minority population (immigrants), and there were speculations that the crime might be a so-called *honour killing*,⁴⁷² a violence form often addressed as *motive violence*.⁴⁷³ However, using the available material, it is impossible to draw any further conclusions about whether this fact affected the phrasing of the text and the particular aspiration to find a motive.

In the Turkish cases, it is evident that the clause of *custom (töre)* in the qualified form of felonious homicide encourages the existence of the *essentialised/collective violence* discourse. This might explain why the discourse generally occurs more frequently, dominating the Turkish cases more than the Finnish ones. Examples of the discourse can be seen in multiple arguments in the judgements examined. In the following, I account for a few.

In case T1, the discourse appears in the comment added to the judgement by the judge who argued that the killing should be considered as one of *custom*. The judge refers to socio-legal and sociological research in her/his comment, arguing that: *In this environment, honour killings are perpetrated by the perpetrators due to the fear of risking their honour/dignity, and in order to maintain their social/communal values, in order to act in accordance with their moral judgements, and also in order to see to it that these rules are implemented in general [...]*.⁴⁷⁴ The source of the argument accounted for, is a book by lawyer Doğu Ergil, called *Terror and Violence in Turkey*⁴⁷⁵ from 1980. Here, the strategy of alterity is evident: the judge refers exclusively to *them*, describing another reality and another society, different from the “civilised” society of the *self*.⁴⁷⁶ The employment of this discourse continues in the comment by the same judge in minority: *Custom is a*

⁴⁷¹ Independent translation from Finnish by the author: ”J on esitutkinnan alussa toistuvasti myöntänyt syylistyneensä K:n surmaamiseen osaamatta keroa teolleen mitään motiivia.” Kouvola hovioikeus R 10/1129, Etelä-Karjalan kärjäoikeus, R/360, Judgement given 27 October 2010, p. 3.

⁴⁷² See Yle Uutiset: Pakistanilaisnaisen surma käräjillä, Ilta-Sanomat: Eroaiheet pakistanilaisnaisen surman takana – syyttäjä: rituaaliteurastus.

⁴⁷³ Louise Lund Liebmann, 13 September 2013.

⁴⁷⁴ Independent translation from Turkish by the author: ”Bu çevrede namus cinayeti işleyenlerin namuslarını/şereflerini korurken, onların toplumsal/cemaatsel değer ve ahlak yargılarına uygun hareket ettikleri, hatta onları uyguluyor oldukları için onay görmeleri olağandır [...]” The Supreme Court of Appeals of Turkey, Decision no. 2010/3023, File no. 2009/6525, Judgement given 27 April 2010.

⁴⁷⁵ Independent translation from Turkish by the author: *Türkiye’de Terör ve Şiddet*.

⁴⁷⁶ See Koğacıoğlu 2011 and Bayr 2013.

*sociological concept, describing a societal “norm” in a certain place. Deriving from societal values, sanctions for deviations from the norm are generally harsh and cruel. It is not certain what measures will be directed against the victim of honour killings.*⁴⁷⁷ *This depends on the status of the measures and the dimensions of the perceptions, and may have regional variations.*⁴⁷⁸ Here, reference is made to sociologist Tezcan Mahmut, and his book *Custom (Honour) Killings in Turkey*,⁴⁷⁹ from 2003.

It is significant to notice that there seems to be a particular need for cultural explanations of what is perceived as the violence of the *other*. On the other hand, there seems to be no need for sociological or cultural explanations in the cases analysed, which are *not recognised* as motivated by *custom* or (*collective*) *honour*. Since the violence recognised as *custom* is more severely punished, the legal recognition of so-called *custom killings* leaves a remarkably great margin of appreciation to the court.⁴⁸⁰

Another example of the discourse is visible in the argumentation in judgement T3: *The defendant entered the room where the victim was staying, with the motive of saving the family honour (custom). The defendant knew that the victim was heavily pregnant and that the time for giving birth was approaching. The victim was sleeping, when the defendant stabbed her with a knife in nine different places, four of the stab wounds being enough to kill the victim, thus understood as premeditated.*⁴⁸¹ In this case, it is particularly noteworthy how important the motive is for the description of the violence, and in order to determine whether the killing was premeditated or not. The construction of so-called *collective gendered violence* in courts focuses largely on the motive of the killing, often involving a collective decision. As stated earlier, a decision of a family council is often

⁴⁷⁷ Direct translation from the Turkish judgement. However, since this sentence lacks logical consistency, what is probably intended is that *it is not certain what measures will be directed against the person deviating from the societal norm*.

⁴⁷⁸ Independent translation from Turkish by the author: “Töre, sosyolojik bir kavram olan toplumsal “norm” içinde yer alır. Toplumsal değerlerden, normlardan sapmalar genellikle sert ve acımasız yaptırımları içerir. Töre cinayeti kurbanının töreye aykırı davranışı konusunda da belli bir ölçü yoktur. Ölçüler duruma, algılama biçimine ve yöreye göre değişebilmektedir.” The Supreme Court of Appeals of Turkey, Decision no. 2010/3023, File no. 2009/6525, Judgement given 27 April 2010.

⁴⁷⁹ Independent translation from Turkish by the author: *Türkiye’de Töre (Namus) Cinayetleri*.

⁴⁸⁰ It is interesting to notice that this tends to lead to a greater willingness of the judiciary to apply the article of *unjust provocation* instead of regarding a crime as one of so-called *custom*. Sirman 2011, p. 1.

⁴⁸¹ Independent translation from Turkish by the author: “Sanığın, maktulenin kaldığı odaya girerek ailenin namusunu kurtarmak (töre) saikiyle, hamile olduğunu ve doğumuna az bir süre kaldığını bildiği, uyumakta olan maktuleye bıçakla, dördü ayrı ayrı öldürücü olmak üzere, dokuz ayrı yerinden vurarak tasarlayarak öldürdüğü anlaşıldığına göre.” The Supreme Court of Appeals of Turkey, Decision no. 2009/293, File no. 2008/10901, Judgement given 30 January 2009.

seen as proof that the killing was motivated by *custom*,⁴⁸² thus, also leading to the conclusion that the killing is premeditated. Since the Turkish Criminal Code – like the Finnish – already considers a premeditated manslaughter aggravated, it is legitimate to pose the question whether it is necessary to additionally mention *custom* as a *separate aggravating ground*. This being said, a separation of this kind can be seen as a manifestation of the *essentialised* or *collective* violence discourse.⁴⁸³

An example of the discourse also occurs in judgement T5. However, here it mostly concerns the mistress of the man, living in the same house as the rest of the family: *The defendant was living in his house, with his official wife and children, when he took another woman home, from an extramarital affair, to live with them in order to lead an immoral life [...]*.⁴⁸⁴ In this context, the discourse primarily *essentialises polygamy*, allowed in the Ottoman Empire, but forbidden by law in the founding of the Turkish Republic,⁴⁸⁵ which highlights romantic love and monogamy. Thus, the ideal of the heterosexual couple and the nuclear family are strongly connected to the collective *self* of the Republican Turkish identity.⁴⁸⁶ This said, it is particularly valuable to notice that this *moral distancing* from polygamy is not merely expressed on the legislation level, but also on the level of individual judgements.

5.3 Interconnections: The ultimate victimisation of minority women

The discourses investigated in this study are interconnected, meaning that they occur simultaneously, and that they are not exclusive of each other. In this section, I shortly account for the interconnections of the different discourses, as well as the consequences of their parallel existence and intersections. Due to the limitations of the thesis, the interconnections are described shortly. However, the close study of the interconnections of the discourses could be further developed in another study, since they are particularly

⁴⁸² This is evident in the Turkish case law, e.g. The Supreme Court of Appeals of Turkey, Decision no. 2010/111, File no. 2010/1-56, Judgement given 11 May 2010. See also Se'ver 2005, p. 133 and Sirman 2011, pp. 1–2.

⁴⁸³ See Koğacıoğlu 2011.

⁴⁸⁴ Independent translation from Turkish by the author: "Sanığın, resmi eşi ve çocuklarıyla birlikte yaşadığı evine evlilik dışı ilişki yaşadığı bayanı getirerek ahlak dışı davranışla metres hayatı yaşaması [...]" The Supreme Court of Appeals of Turkey, Decision no. 2012/1724, File no. 2010/3234, Judgement given 13 March 2012

⁴⁸⁵ In the Civil Code of 1926. EGM/GPLVAW/2008/EP.13, p. 2.

⁴⁸⁶ The phenomenon of highlighting the heterosexual nuclear family over the extended family and other forms of kinship is well described in Sirman 2003.

interesting from an intersectional point of view. According to the discourse analysis of the judgements, there are some general conclusions that can be made about the interaction of the discourses. The general and most common interconnections and interactions are available in the following table, providing for patterns found in the court cases studied.

Perceived Culture	Majority Population	Minority Population
Gender		
Male	Individual/Deviant Violence (A)	Collective Violence (B)
Female	Provocation (C)	Culture (D)

According to an intersectional line of argumentation, the general assumption of the study is that women and minority populations as groups are *vulnerable* and often *disadvantaged* in different societal contexts. Regarding legal systems and courts as a part and an outcome of society, they create no exception to this assumption. According to the intersections of the discourses, the intersectionality of the study is particularly revealed, discovering the combination of the *female behaviour* and the *essentialised/collective violence* discourses to be the most harmful for minority women. In the following, the combinations of the different discourses are shortly investigated and explained.

The combination of the *male violence* and the *normalised/individual violence* discourses (A) is the most common in the court cases analysed. Here, the focus lies on the male perpetrator, regarded as a member of the *collective self*. This is often defined through means of implicit identification, the identification often (but not always) depending on the ethnicity/race/ perceived culture of the male perpetrator. In this combination, the individual approach of the court is evident, and the violence perpetrated is not regarded as a result of culture or the impact of a collective society, but as a result of individual decisions. This means that patterns of *structural* gendered violence are rendered invisible in these cases, resulting in the disadvantaged status of female victims.⁴⁸⁷

The combination of the *male violence* and the *essentialised/collective violence* discourses (B) is particularly evident in cases F6, T1, T3 and T5. This combination can be considered to be exceptionally common. Here, the focus lies on the violence perpetrated by the male

⁴⁸⁷ See SOU 2004:121 and Lundgren *et al* 2001.

perpetrator, regarded as a member of the *collective other*, often defined through what the court perceives as *his own culture* and/or *ethnicity*. Here, the court does not necessarily apply an approach that is only individual, but regards the perpetrated violence to be part of a societal pattern: allowing for a structural approach to the violence. The violence being perceived as the violence of the *collective other*, it also seems to be easier to recognise these forms of violence. Here, the direct disadvantaged group is the men of the minority population or members of what is perceived as “minority culture”.⁴⁸⁸

The combination of the *female behaviour* and the *normalised/individual violence* discourses (C) is evident in a couple of the cases analysed. In these cases, the focus lies particularly on the behaviour of the woman, as a *cause* or *explanation* of the violence. The violence directed against her is perceived to be of individual nature, often referred to as *jealousy*, or even *love*. Cultural membership is seldom addressed, since the woman is perceived to be a member of the “majority culture”. Alternatively, the cultural membership of a woman is not regarded as important in the case. The cultural membership of the *woman* is often more dependent on *her social environment*, her family and partner, than her person, ultimately evaluated on different grounds than the cultural membership of the man.⁴⁸⁹ This combination is particularly harmful to women, since the behaviour of the woman is marked as significant and abnormal, while the violence is normalised.⁴⁹⁰

The combination of the *female behaviour* and the *essentialised/collective violence* discourses (D) is also apparent in the cases analysed. Here, the focus of the court lies on the behaviour of the woman, perceived as belonging to the “minority culture”. Like the previous discourse combination, the cultural membership of the woman is not necessarily dependent on her own ethnicity/race/cultural membership, but rather her environment. However, unlike the previous discourse combination, culture is addressed in these cases: either explicitly or implicitly. The particular problem of this combination is that it is both discriminating and harmful for women because of their gender *and* as a part of a perceived minority culture, making minority women particularly vulnerable.⁴⁹¹ The women are simply regarded as *victims of their culture* or even *victims of (cultural) hatred against women*; this explanation also justifying and allowing for more violence towards them, as

⁴⁸⁸ See Volpp 2001 and 2000 and Koğacıoğlu 2011 and 2004.

⁴⁸⁹ Here, traditionally the *person* of the man has a larger significance for his perceived *cultural membership*.

⁴⁹⁰ This is well described by lawyer Lama Abu-Odeh, in her article on defence strategies by the perpetrators in cases concerning gendered violence. Abu-Odeh 1997.

⁴⁹¹ On this line of argumentation, see Al-Hibri 1999.

long as they belong to this *other culture*.⁴⁹² Most importantly, their narratives and realities are seldom presented, or even represented, and their voices are seldom heard in the court constructions of the gender violence. This occurs because the role they are given by the court is simply that of victims, in which the room for alternative narratives is strictly limited.⁴⁹³

It could be argued that the last combination of discourses is particularly fruitful for the strategy that has often been referred to as so-called *cultural defence*.⁴⁹⁴ In this strategy, the perceived *other culture* of the defendant is treated as an extenuating factor in the criminal litigation of the case. This strategy has been particularly criticised by feminists, since it has been used – particularly in certain countries (e.g. the U.S.) – to excuse gendered violence.⁴⁹⁵

⁴⁹² The similar argumentation is used by political theorist Chandran Kukathas. Kukathas 1998.

⁴⁹³ The same conclusions are also made by Dicle Koğacioğlu in her sociological work regarding the Turkish-Kurdish context. Koğacioğlu 2011.

⁴⁹⁴ See Spatz 1991, Honig 1999 and Polreich 2011.

⁴⁹⁵ Volpp 2000 and Koğacioğlu 2000.

*But to say that a category
such as race or gender
is socially constructed
is not to say that that category
has no significance in our world.*

Lawyer and intersectional theorist Kimberlé Crenshaw⁴⁹⁶

⁴⁹⁶ Crenshaw 1991, p. 1296.

6 Conclusions: Gendered violence and identity-building processes

This chapter analyses and discusses the conclusions and findings of the study. It brings the crystallised findings of the study forward and places it against the background of established theories. Furthermore, this conclusive chapter suggests material and possible questions for further research.

Described by several sociologists, such as Nükhet Sirman, Suvi Keskinen and Dicle Koğacıoğlu, the identity-building process of a nation happens through a process of *inclusion* and *exclusion*, depending on who is viewed as the *self* and who is viewed as the *other*.⁴⁹⁷ What is viewed as positive and worth striving towards is often considered part of the (*collective*) *self*, while the things that are viewed as negative are easily considered to belong to the (*collective*) *other*. Thus, the identity-building process is dependent on the concept of alterity, affecting *in particular* vulnerable minority groups, who are subjected to oppressive, e.g. racist, discourses in the media and society in general.⁴⁹⁸ Gendered violence is one area especially sensitive to this identity-building process. Being a *universal problem*, it is easy to point out gendered violence as a problem of the *perceived other*, if one is blind to the gendered violence existing in the society of the *perceived self*.⁴⁹⁹ Concluded in the analysis of the court cases, the categorisation of gendered violence renders the *universal* problem of gendered violence invisible, stressing the *particularism* of the problem. Thus, it is important to challenge and question the *interest* in the debate surrounding the so-called *collective gendered violence*,⁵⁰⁰ which has been growing in the international, Turkish and Finnish national societal and legal contexts during the last decade(s).⁵⁰¹

In the court context, particularly concerning criminal law cases, there is an important element of representation and construction, performed by judges in order to be able to make a legal evaluation of the case. This means that the facts of the case are constructed by the court, and the facts that are considered relevant are dependent on the *evaluation* of the

⁴⁹⁷ See Koğacıoğlu 2011 and 2004, Keskinen 2011a, 2011b, 2009a and 2009b, and Sirman 2011, Sirman 2004 and 2003.

⁴⁹⁸ A classic study of this phenomenon is Edward Said's book *Orientalism*. Said 1991. How consensus is achieved through strategies of exclusion is described also by Judith Butler. Butler 2004, p. 206. The function is well described by Leon Sheleff as it being easier to recognise a problem, if it is not perceived as the problem of the self (the larger society). Sheleff 1999, p. 369.

⁴⁹⁹ Eldén and Westerstrand 2003, Volpp 2011 and Aftonbladet: Våldet mot kvinnor är problemet.

⁵⁰⁰ See chapter 3.1 *The Collective Violence: So-called killings of honour or custom*.

⁵⁰¹ Belge 2008, Connors 2005 and Keskinen 2011a, p. 155.

judge(s). In criminal law, an important concern in a case is that of *intent*, or the lack of such, regarding the defendant. Therefore, the narrative description of the defendant is of great importance, providing the court with material for the construction of intent in the legal context, constituting important facts of the case. Thus, criminal law, by structure and nature, focuses largely on the narrative of the perpetrator, the narrative of the victim traditionally being of less importance.⁵⁰²

Legal intent and the motive of a crime are not the same. All the crimes in this study are considered to be *intentional*, but the *motives* of the acts are brought forward in different ways. However, both are constructions of legal theory and legal practice, taking place mainly in the court room. In the cases analysed, it is essential to notice how the motive of a crime is highlighted, even sought after, in some cases,⁵⁰³ while in others it is not given much importance. In criminal law, a motive is generally used in court in order to prove the degree of legal guilt, in particular through demonstrating that an act of violence was premeditated.⁵⁰⁴ Thus, it implicitly indicates an aggravated form of the crime and a greater guilt. In the judgements investigated, it seems to be of particular importance in cases where the legal construction of the male perpetrator's narrative has an *essentialising* effect: for instance so-called *collective gendered violence*.⁵⁰⁵ In the judgements where the *normalised/individual* discourse⁵⁰⁶ is dominating, on the other hand, the *motive* of the killing is often not accounted for, particularly if the discourse occurs in combination with the *female behaviour* discourse. In this combination, the focus is on the behaviour of the woman, rather than the violence of the man.⁵⁰⁷ Hence, there is no particular need to *explain* the violence with a *separate* motive: it is evident that the excusing motive was the behaviour of the woman.

In a criminal legal examination of a case, it is of ultimate importance to take into consideration the particularities of every case. Since the context of each case is different,

⁵⁰² See Goldstein 1982.

⁵⁰³ One example of this is case F6, where the motive of the crime is repeatedly investigated in both court instances, and rendered of great importance for the legal judgement. Kouvola hovioikeus, Judgement no. 2011/399, Record no. R 10/1129, Judgement given 14 April 2011.

⁵⁰⁴ A premeditated crime indicates particular legal guilt, according to Lappi-Seppälä *et al* 2009, p. 481. In the Turkish legal context, the *motive* is largely highlighted in so-called *custom killings*. See Ertürk 2009, pp. 62–63.

⁵⁰⁵ See chapter 3.1 *The Collective Violence: So-called killings of honour or custom*.

⁵⁰⁶ See chapter 5.2.3 *Normalised/Individual Violence*.

⁵⁰⁷ As discussed in chapter 5.3 *Interconnections: The ultimate victimisation of minority women on the interconnections of the different discourses*.

an individual judgement is necessary in order to guarantee the fairness of the trial.⁵⁰⁸ This being said, a legal *conceptualisation* of violence only taking place on an individual level is *not necessarily fair or just* – rendering the universality of gendered violence invisible. The legal focus is often only directed towards the events which are recognised as legally relevant, allowing only for a considerably limited understanding of violence.⁵⁰⁹ This approach is discriminating upon the female sex and gender, since it does not recognise patterns of violence for individual women, nor for women as a group, in the worst cases leading to the death of the woman. These structural patterns can be seen in the court cases analysed in this study. All of the women were killed by men, many of the women⁵¹⁰ were subjected to violence earlier by the *same* male perpetrator who later killed them, most of the women were killed by their partners and all of the women were *unable* to get enough help, support and protection from the state and society in order to avoid death.⁵¹¹

When addressing gendered violence without addressing discrimination in society, issues of racism, inequality in resource distribution, marginalisation and other structural problems, it is easy to draw conclusions that rely on culturalist explanations.⁵¹² Through performing a discourse analysis of judgements, taking the context of the judgements into consideration, I have strived towards revealing constructions of gendered violence in court language from an intersectional perspective. The aim of this study has been to break through the objectivity paradigm of law, as well as to highlight the universality of gendered violence. The intersections and interconnections of the discourses analysed being of special interest, this provides material and research questions for further research. In particular, the consequences of the combinations of two or multiple discourses provide a fruitful topic for research. An important question, mentioned shortly above, would be to investigate the frequency of the different discourses in relation to the criminal strategy of so-called *cultural defence*: in particular relating to the discourses of *essentialised/collective violence* and *female behaviour*.⁵¹³

When it comes to the usefulness or harmfulness of dividing gendered violence, it can be

⁵⁰⁸ In order not to move outside the letter of the law. See Matikkala 2005, pp. 15–16.

⁵⁰⁹ This phenomenon has earlier been investigated by other feminist researchers, such as Johanna Niemi-Kiesiläinen, Minna Ruuskanen and Helena Jokila. Niemi-Kiesiläinen 2004, Ruuskanen 2005 and Jokila 2010.

⁵¹⁰ I have chosen to use the phrase *many of the women*, since it does sometimes not emerge from the court cases whether the woman had been faced with violence earlier in the relationship.

⁵¹¹ See chapter 5 *Court Context: Analysis of constructions*.

⁵¹² Koğacioğlu 2004.

⁵¹³ See chapter 5.3 *Interconnections: The ultimate victimisation of minority women*.

considered to be useful in order to categorise the forms of violence legally, e.g. marking a difference in legal guilt between battering and killing. It can also be regarded useful in order to *recognise* as many forms of gendered violence as possible.⁵¹⁴ Useful examples where recognition occurs are e.g. special education and training of law enforcement authorities to recognise and take seriously multiple forms of violence, as well as to build shelters for survivors of multiple forms of violence.⁵¹⁵ One positive outcome of the Swedish work against so-called *honour violence* during the last decade is that there is more knowledge about the meaning and the serious nature of e.g. death threats and family council decisions.⁵¹⁶ This study recognises multiple forms of gendered violence: with a particular focus on gendered violence with death as the outcome, perpetrated in the domestic sphere. However, I would like to stress that there is a significant difference between *dividing* and *recognising*. Recognising various forms of violence is equal to paying attention to them, admitting their existence and taking them seriously. The concept of *dividing* different forms of gendered violence is however closely connected to *essentialising* discourses of *alterity*.

Dividing and categorising different forms of gendered violence has two main downsides, as demonstrated in this study: 1) it renders invisible the *universal* nature of gendered violence, and 2) it supports the *culturalisation* of violence, providing for particularist explanations. It is discriminating on multiple grounds and particularly harmful for women recognised as members of a minority culture.⁵¹⁷ This is particularly visible in the examples of the division of so-called *collective*⁵¹⁸ and *individual gendered violence*⁵¹⁹. In so-called *collective gendered violence* – of which so-called *honour killings* is an example – the decision, norms and motivation to perpetrate the violence is said to come from the collective, rather than from one single perpetrator. So-called *collective gendered violence* is often described as acts of policing, guarding the societal norms in a certain community.⁵²⁰ The societal norms of *honour* and the *honour codex* in a specific society is said to bring about these crimes. Thus, both the perpetrator(s) and the victim are somewhat viewed as

⁵¹⁴ The importance of addressing and recognising violence faced by minority women is also highlighted by lawyer and intersectional theorist Kimberlé Crenshaw. If this violence is ignored, the approach cannot be truly intersectional. See Crenshaw 1991.

⁵¹⁵ Abu-Lughod 2011, p. 18. It can be considered as a serious issue if the law enforcement personnel (in particular) are unable to recognise certain forms of gendered violence. Payton 2011, pp. 71–72.

⁵¹⁶ This was brought forward by Jenny Westerstrand during my interview with her. Jenny Westerstrand, 17 October 2013.

⁵¹⁷ See chapter 5.3 *Interconnections: The ultimate victimisation of minority women*.

⁵¹⁸ See chapter 3.1 *The Collective Violence: So-called killings of honour or custom*.

⁵¹⁹ See chapter 3.2 *The Individual Violence: So-called killings of passion or honour*.

⁵²⁰ Ertürk 2009, pp. 65–66.

victims of (another) culture.⁵²¹

However, in so-called *individual gendered violence* – of which so-called *passion killings* is an example – the male perpetrator is described as a perpetrator acting alone, on the basis of an individual decision, which he has often made in “the heat of the moment”, under the influence of anger, jealousy or mental instability. However, elements of *honour* are also highlighted in these cases, but in these crimes it is described as *individual honour*, such as the fear of being left by the woman or the “shame” of the woman having a relationship with someone else.⁵²² Here, elements of culture can also be considered to be present – but these elements are *not* described as belonging to another culture, but rather rendered invisible as part of the majority culture. Thus, this form of violence is *normalised*. This means that the normalised description of violence is somewhat *culturally blind*: not recognising the so-called *individual honour* as a creation of culture.⁵²³

As described earlier, in some of the literature on the issue of gendered violence, *patriarchal patterns* are highlighted to a greater extent in the cases that are recognised as so-called *collective gendered violence*, than in the cases of so-called *individual gendered violence*. So-called *collective gendered violence* is described as the acts of misogyny or hatred towards women, while the so-called *individual gendered violence* is described as acts of love or passion. This represents a clear example of the implicit cultural blindness, racism and patriarchy of the later discourse. In this study, I have aimed to stress the *construction* of this *difference*, in order to challenge the essentialising argumentation visible in some of the judgements analysed.

This study is an attempt to render visible the discriminating discourses that occur in the judgement texts, viewed against their societal context, in order to stimulate debate and open up the legal argumentation for analysis, revision and development. Division of gendered violence for the purpose of providing different explanations for the violence is not supported by the outcomes of this study. The division of different forms accepts, and therefore gives value to, the narrative of the male perpetrator: the perspective of the *victim* being forgotten. This study does not suggest that so-called *collective gendered violence* and so-called *individual gendered violence* are the exact same phenomenon. This study recognises the importance of the recognition of *all forms* of gendered violence. However,

⁵²¹ See Wikan 2005. See chapter 3.1 *The Collective Violence: So-called killings of honour or custom*.

⁵²² Hurttä 2002, pp. 59–60.

⁵²³ See chapter 3.2 *The Individual Violence: So-called killings of passion or honour*.

this study is critical of the division and culturalisation of violence, visible in societal discourses and in the court context. The study highlights the universality of gendered violence *over* the particularity of its forms: but above all, it stresses the *contextuality* of the violence.

Annex: Court Judgements

F1

This is the case KKO:2004:80 from the Finnish Supreme Court. Here, the woman was killed by her husband. Having separated before the killing, the woman in the case had been invited by her husband to his new apartment. In the previous relationship, the man had several times earlier threatened the woman, as well as members of her family, saying he would kill her. He had also been violent towards the woman on several occasions.⁵²⁴ The day before her visit, the man had obtained a 22 calibre gun and two clips of bullet cartridges. When the woman arrived to the apartment, the man had put the loaded gun under his belt, and the other clip under a pillow of his couch. In the apartment, the man started threatening the woman, pointing a gun at her. While trying to escape from the apartment, the woman was shot several times by the man, using both clips of cartridges. While the woman ran down the staircase, being hit by a few bullets and shouting for help, the man followed her. The final shots at the woman were made while she was lying on the ground. The woman was hit twelve times by different bullets. There was no doubt in court that the man had aimed to kill the woman. The male perpetrator confessed to manslaughter, but not murder. The man was considered guilty of manslaughter in the Court of First Instance, and of murder in the Court of Appeals and in the Supreme Court. The Supreme Court considered the act to be premeditated, of a particularly cruel and brutal manner, as well as aggravated when addressed as a whole.

F2

This is the case KKO:2000:3 of the Finnish Supreme Court. In this case, the woman was killed by her husband. The woman and the male perpetrator had three children together, who were all killed at the same time as the woman. It does not emerge from the judgement whether the woman had been faced with violence in the relationship before. The woman had lain down in the bedroom to rest, when the man entered the bedroom and stabbed her 39 times: in the chest, the back, the right armpit, the left arm and the left shoulder. After stabbing the woman to death, he stabbed the children to death. There was no doubt in the

⁵²⁴ An example of the violence earlier faced by the woman was that the man had tried to strangle her using the belt of a bathrobe. This was told in the Court of First Instance by a witness. KKO:2004:80, Turunseudun käräjäoikeus R 01/542, Judgement given 5 December 2001, p. 9.

court that the man had aimed to kill the woman (or the children). The male perpetrator thought that the crimes should be regarded as four cases of manslaughter, and stressed his mental instability. The Supreme Court considered that the act was perpetrated in a particularly cruel and brutal manner, and that it was aggravated when estimated as a whole. The man was considered guilty of murder in all court instances, and the killing was considered to have been perpetrated without full understanding⁵²⁵ of the circumstances of the offence in the Court of First Instance. However, in the Court of Appeals and the Supreme Court, the murder of the woman and the children were considered to be perpetrated with full understanding of the circumstances.

F3

This is the case KKO:2000:29 of the Finnish Supreme Court. Here, it was not the grown-up woman that was killed – but her female child. The girl was killed by her mother's partner. The female child was with her mother (the woman) and her mother's partner, on an island, when the male perpetrator violently battered her mother, aiming to kill her, crushing her throat and stabbing her several times to her upper body; however, partly missing as the woman was able to move slightly, and managed to avoid being stabbed. The woman escaped from the stranglehold of the male perpetrator, and was able to run away, get into the water and escape from the island by swimming. The woman received abrasions, contusions and a 2.5 cm cut on her chin from the battering.

The child was woken up by the noise of her mother's partner assaulting her mother, and got up from bed in order to witness the scene. The girl saw her mother's partner trying to stab her mother to death, and started to cry out of fear. When her mother managed to escape from the violence her partner was directing towards her, the male perpetrator turned his violence towards the female child instead. She was repeatedly strangled by the man, and stabbed to the neck and the chin. After this, her throat was slit with a 7.5 cm cut: causing major damage to vital organs and massive bleeding, which was the immediate cause of death. There was no doubt in court that the man had aimed to kill the woman, as well as the child. The male perpetrator confessed to manslaughter, but not murder. The act (the killing of the female child) was considered to be particularly raw and brutal in its manner, as well as aggravated when addressed as a whole. The man was considered guilty

⁵²⁵ *Fi: vailla täyttä ymmärrystä.*

of murder in the Court of First Instance, the Court of Appeals and in the Supreme Court. The judgement text does not account for whether the woman or the child had been faced with violence by the perpetrator before.

F4

This is the case of the Helsinki Court of First Instance, judgement no. 06/1871.⁵²⁶ In this case, the woman was killed by her husband. During a holiday, the relationship between the woman and the male perpetrator had ended. After arriving to Finland, the woman went to a shelter, because she had nowhere else to go after leaving the abusive relationship. Arriving to the shelter, she was worried about the security of their two children, as well as her own abilities to cope with the situation. At the shelter, she had said that her “life insurance” was that she was still breastfeeding, referring to her violent husband. The woman was still staying at the shelter, and getting off a bus in Helsinki city centre with their baby daughter, when her husband approached her. He had been waiting for her at a nearby restaurant, since he was expecting her to get off at the bus stop around that time. Getting off the bus, he grabbed her and pulled her (with the perambulator and the child) towards his car, which was parked nearby. She refused to engage in discussion with him, and asked him to let her go. When the man opened the door to his car and she refused to get in, he took a knife from the car door and stabbed the woman 28 times to her upper body. Falling to the ground from the first cut, the man continued to stab the woman while she was lying on the ground. The man kept stabbing the woman until the blade of the knife broke.

There was no doubt in the Court of First Instance that the man had aimed to kill the woman. The man also confessed to manslaughter, but not murder. The manner of the act was considered to be particularly brutal and cruel, and aggravated when addressed as a whole. The court considered the man to be guilty of murder. However, he was ascribed reduced criminal responsibility for the act, due to medically verified personality disorders.

⁵²⁶ Court of First Instance, Helsingin käräjäoikeus, Judgement no. 06/1871, Record no. R 05/8762, Judgement given 22 February 2006.

F5

This is the case of Helsinki Court of First Instance, judgement no. 06/10736.⁵²⁷ In this case, the woman was killed by her husband. The judgement does not involve any statement whether the woman had been battered earlier in the relationship. At a parking ground in Helsinki, the woman had been together with her husband and their one-year-old child. She was stabbed to death by the male perpetrator, the man having bought the knife used for the act on the same day. She was stabbed 17 times by the man, 14 times to her upper body and her head, and three times to her arms. At the time of her death, she was pregnant, because of this, she was considered particularly vulnerable by the court. There was no doubt in court that the man had aimed to kill the woman. The man also confessed the act: however, he highlighted that his mental and financial situation should be taken into consideration by the Court. The manner of the act was considered to be particularly brutal and cruel, as well as aggravated when addressed as a whole. The Court of First Instance considered the man to be guilty of murder. However, he was considered to be mentally deranged.

F6

This case is from the Kouvola Court of Appeals, judgement no. 2011/399.⁵²⁸ Here, the woman was killed by her former husband. She was married to a new man, who had been threatening her, knocking her down to the floor, and crushing her throat violently with his hands, on the same day that she was murdered by her former husband. The abuse had caused the woman a tender bump to the head, cuts, abrasion, and swelling. The man had abused the woman after she had declared her intentions to leave him. After the abuse, the woman left their common apartment, where she was normally staying with him and their three children. After having a medical examination performed by a doctor, she fled to the apartment of a friend.

The woman was staying in her friend's apartment, when her former husband came to see her later during the same day. He had earlier, during the same day, talked to her new husband, and came to the apartment in order to tell the woman to return to her new husband. Before going to the apartment to see the woman, the man had bought a knife. In court, the man claimed that he had talked to the woman for roughly half an hour in a room,

⁵²⁷ Court of First Instance, Helsingin käräjäoikeus, Judgement no. 06/10736, Record no. R 06/10736, Judgement given 27 October 2006.

⁵²⁸ Kouvolan hovioikeus, Judgement no. 2011/399, Record no. R 10/1129, Judgement given 14 April 2011.

where they were alone. The woman had refused to return home to her new husband. When the woman had lain down on the bed to rest, the man had slit her throat with the knife: cutting through major organs and veins, causing massive bleeding, leading to the woman's death. The judgement of the court does not evaluate whether the woman had been faced with violence earlier in the new relationship, or the old relationship, than on the day of her murder.

There was no doubt in court that the man had aimed to kill the woman. The man confessed to manslaughter, but not murder. The act was considered to be premeditated by the Court of First Instance as well as the Court of Appeals. The manner of the act was considered to be particularly brutal and cruel by the Court of First Instance, but not by the Court of Appeals.⁵²⁹ The act was considered to be aggravated, when addressed as a whole, by both the Court of First Instance and the Court of Appeals. Both Courts considered the man to be guilty of murder.

T1

This case is from the Turkish Supreme Court of Appeals on Criminal Matters, decision no. 2010/3023.⁵³⁰ Here, the woman was killed by her male partner, with whom she was living. Her partner owned a bar, in which the woman worked. Sometimes, in order to cope with her poor financial situation, the woman had sold sexual services to men. The man was married to another woman, with whom he had two children, however, he was not living together with this woman. On the day of the killing, the man came home around 2 a.m., and the woman did not let him come into the house. The court decision does not account for the reason why the woman did not want to let the man inside, neither whether the male perpetrator had been violent in their relationship before, or not. According to the man, he waited outside for the woman to let him in; while he was waiting, he was cursing the woman for not letting him inside. Eventually, the woman let the man in. Entering their home, the man claimed that they had an argument, after which he killed the woman. The man killed the woman in a way that was considered to cause her particular pain, by stabbing her 18 times to different parts of the body and putting salt into her vagina.

⁵²⁹ The Court of Appeals did not consider the woman to be in a defenceless situation, since it thought there was no proof of such situation. However, the Court of First Instance considered the woman killed to be in a defenceless situation.

⁵³⁰ The Supreme Court of Appeals of Turkey, Decision no. 2010/3023, File no. 2009/6525, Judgement given 27 April 2010.

There was no doubt in the Supreme Court, nor the Court of First Instance, that the man had aimed to kill the woman. The man also confessed to killing the woman, however he demanded that the fact that the woman had been selling sexual services be regarded to his advantage, as unjust provocation. The Court of First Instance thought that the behaviour of the woman constituted unjust provocation, but this opinion was not shared by the Supreme Court, which did not consider the behaviour of the woman to constitute unjust provocation. The act was considered a qualified form of felonious homicide in both Court instances. The majority of the Supreme Court regarded the crime qualified due to its ferocious and brutal nature. A minority of the Supreme Court thought that it should be qualified due to grounds of custom: however, that was not the final verdict.

T2

This case is from the Turkish Supreme Court of Appeals on Criminal Matters, decision no. 2011/124.⁵³¹ In this case, the woman was killed by her former husband. After separating from her husband, who had been violently abusing both her and her children, the woman first lived at her parents' house, in another city, with her two children. When she met a new man, she applied for a divorce. After the divorce was officially approved by the State authorities and she was granted full custody of the children, she married the new man. Her former husband was still making threats after the divorce: he said that he would kill the woman and their children. In order to get away from the threats of her former husband, the woman moved with her children and her new husband to another city, further away from her old husband. However, her former husband heard about the move and decided to follow them. Arriving to the new city, the armed, former husband saw the woman and her new husband in a shop. Upon seeing them, the man shot the woman five times and her new husband six times with his gun, causing lethal injuries to their internal organs, as well as internal bleeding, leading to the death of the woman and her new husband.

There was no doubt in the Supreme Court that the man had aimed to kill the woman and her new partner, however, it was discussed whether the act was premeditated, or if it was an act of sudden rage. In the Court of First Instance, it was considered a qualified form of felonious homicide, which benefited from the article of unjust provocation. The Supreme Court also discussed whether the crime could be counted as performed due to unjust

⁵³¹ The Supreme Court of Appeals of Turkey, Decision no. 2011/124, File no. 2011/1-24, Judgement given 14 June 2011.

provocation, i.e. whether seeing his old wife in a new relationship could be regarded as unjust provocation. The Supreme Court thought that the act was wilfully performed – and therefore a case of qualified form of felonious homicide. A minority of the Supreme Court thought that unjust provocation should be counted to the benefit of the male perpetrator, however, a majority of the Supreme Court thought that the act could not benefit from the regulation on unjust provocation. The decision of the lower court was discarded, and the case was sent back for revision, saying that unjust provocation should not be considered in the case.

T3

This case is from the Turkish Supreme Court of Appeals on Criminal Matters, decision no. 2009/293.⁵³² Here, the woman was killed by her brother. It does not emerge from the judgement whether the woman had been subjected to violence before by the male perpetrator. The woman was living with her husband, and her family had come to stay with them for a holiday. The woman was pregnant, and the baby was expected to be born in a few weeks. Her husband being away for work, the woman was sleeping in their bed one night, when her brother entered the room, and started stabbing her with a knife. The noise from the bedroom woke the woman's mother up, and upon entering the room, the mother witnessed the scene. The mother tried to stop her son from stabbing her daughter to death, but was unsuccessful, since he had already managed to stab her in nine different places, causing lethal damages. The brother also attacked the mother and tried to kill another one of his sisters, who tried to stop him on his way out of the room.

Both court instances had no doubt that the man had aimed to kill the woman, and, in the Supreme Court, there was a discussion whether the crime constituted a qualified form of felonious homicide due to grounds of custom or not. The Court of First Instance had earlier regarded the crime to be a killing motivated by custom. The Supreme Court discussed whether the crime performed could receive a mitigated sentence due to unjust provocation, but it was considered that the circumstances did not entitle the male perpetrator to a lesser sentence. The act was considered to be wilfully performed, against a close relative (sister), a person who cannot protect herself, a pregnant woman and on grounds of custom, and therefore a case of qualified form of felonious homicide. The article of unjust provocation

⁵³² The Supreme Court of Appeals of Turkey, Decision no. 2009/293, File no. 2008/10901, Judgement given 30 January 2009.

was not applied. Therefore, the decision of the lower court was not discarded but affirmed.

T4

This case is from the Turkish Supreme Court of Appeals on Criminal Matters, decision no. 2007/6751.⁵³³ In this case, the woman was killed by her husband. The male perpetrator had proposed to the woman to travel to Antalya with him, but she had not wanted to go. Later, he wanted to have sexual intercourse with the woman, but she refused. When the male perpetrator tried to rape her, the woman pushed him out of bed. Falling out of bed, the man took a gun and shot the woman to death. The judgement of the Supreme Court does not say whether the woman had experienced violence by the man before.

There was no doubt in the Court of First Instance – or the Supreme Court – that the man had aimed to kill the woman. The man had been considered guilty of the qualified form of felonious homicide in the Court of First Instance. The man had applied to the Supreme Court, asking it to try the case on the grounds of unjust provocation. The Supreme Court decided that refusing to have sex and refusing to go on a trip with the man did not create grounds for unjust provocation, and therefore the man could not be given a reduced sentence. Since the act was performed against a spouse, it constituted a qualified form of felonious homicide. The Supreme Court affirmed the judgement of the Court of First Instance.

T5

This case is from the Turkish Supreme Court of Appeals on Criminal Matters, decision no. 2012/1724.⁵³⁴ Here, the woman was killed by her husband, who had regularly abused her during the relationship. A few months before her death, the man had violently forced the woman to accept that he was taking another woman (as a mistress, *kuma*) to live in the same household as them and their children. The man also had an affair with the sister of the other woman. Rumours soon spread about the situation, and the man claimed that he wanted to divorce his wife in order to end the rumours (in order to later marry his mistress). However, since a divorce constituted a great risk to the social and financial

⁵³³ The Supreme Court of Appeals of Turkey, Decision no. 2007/6751, File no. 2006/4529, Judgement given 24 September 2007.

⁵³⁴ The Supreme Court of Appeals of Turkey, Decision no. 2012/1724, File no. 2010/3234, Judgement given 13 March 2012.

situation of herself and her children, the woman did not agree to it. When the woman refused a divorce, the male perpetrator shot her in the head with a close-range shot.

There was no doubt in both court instances that the man had aimed to kill the woman, and the Supreme Court tried whether the offence could be considered as perpetrated on grounds of unjust provocation, since the male perpetrator claimed that his wife was cheating on him. This was a claim that he had also expressed in the Court of First Instance, who considered this claim enough for him to benefit from the article on unjust provocation. However, the Supreme Court considered that these claims were groundless and that they were probably only part of a strategy for the man to access a mitigated sentence through the application of Article 29. Since the act was perpetrated against a spouse, it constituted a qualified form of felonious homicide. The Supreme Court discarded the judgement of the Court of First Instance, since it had considered the man entitled to the mitigated sentence through the application of unjust provocation.

T6

This case is from the Turkish Supreme Court of Appeals on Criminal Matters, decision no. 2009/290.⁵³⁵ In this case, the woman was killed by her former husband. The woman had been married to the male perpetrator for 30 years, but they had been living separately for almost eight years. They also had children together. The man had earlier violently abused both the woman and their children. Twelve days prior to her killing, the divorce case of the man and the woman, as well as the custody of their common children, had been dealt with by the court. In court, the divorce was approved and the woman received primary physical custody of the children.

On the day of her murder, the woman was in her garden and her son was inside the house. The male perpetrator had taken a taxi to the woman's house, and walked up to the woman with a gun in a bag. The man asked to see their son inside the house, but the woman refused. As a result, the man and the woman started arguing loudly, exchanging insults. While violently trying to get into the house, the woman hit the man with a broom in order to stop him. The man then took the gun out of the bag, and shot the woman several times. She was hit seven times by different bullets, lethally wounded by five of them. Most of the

⁵³⁵ The Supreme Court of Appeals of Turkey, Decision no. 2009/290, File no. 2009/1-200, Judgement given 15 December 2009.

bullets were fired after the woman had fallen to the ground.

In both court instances, it was clear that the man had aimed to kill the woman. However, the Court of First Instance thought that the article on unjust provocation should be applied in the case. This was due because the court considered the man to be in great stress due to not being able to see his son, and that he was hit by sudden rage and anger when he was not allowed to enter his former wife's house. However, the court still considered the killing to be a qualified form of felonious homicide, since it was performed against a spouse (the divorce judgement not having gained legal force). The Supreme Court also considered the case to be a qualified form of felonious homicide, both on the grounds that it was against a spouse and that it was premeditated.⁵³⁶ A majority of the Supreme Court did not think that the male perpetrator could benefit from the article of unjust provocation, since he had fired so many shots against the woman from behind, while she was lying on the ground.⁵³⁷ Thus, the Supreme Court discarded the decision of the Court of First Instance, not approving the application of Article 29 in the case.

⁵³⁶ The Supreme Court thought it likely that the man had planned to kill the woman since the divorce and custody decision of the Court was given.

⁵³⁷ The Supreme Court regarded a few shots from the front to potentially be within the scope of unjust provocation, however not so many shots from behind, as were the facts of the case.